

THE BISHOP OF NUEVA CACERES, ETC., PLAINTIFF, VS. EUGENIA M. SANTOS ET AL., DEFENDANTS.*G.R. No. 47260. June 06, 1941*

Ponente: LAUREL, J.

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Engracio Orense, a resident of the municipality of Guinobatan, Province of Albay, died on October 8, 1918, leaving a will, according to which six parcels of land were left to the Roman Catholic Church of Guinobatan, Albay, as trustee for various charitable and educational purposes, subject to a life estate in favor of the surviving spouse, Eugenia M. Santos Vda. de Orense, one of the defendants-appellants herein, who, in the absence of descendants, ascendants, and collateral heirs of the deceased, was made his universal testamentary heir. In civil case No. 2867 of the Court of First Instance of Albay, the will was admitted to probate, and the appellant, Eugenia M. Santos Vda. de Orense, was appointed executrix.

On January 29, 1919, the defendant-appellant, Eugenia M. Santos Vda. de Orense, as judicial administratrix of the estate, filed a motion reciting that the deceased, in his lifetime, had signed a contract with the Pacific Commercial Company for the purchase of a complete equipment for the installation of an electric plant in the municipality of Guinobatan, Albay, for the sum of P15,590; that the machinery had begun to arrive and that the company was urgently demanding payment of the second installment of the purchase price amounting to P6,236, which together with the cost of transportation will amount to P7,000; that she had no funds with which to meet the obligation and that it would be necessary to borrow P10,000 from the Philippine National Bank, the surplus thereof to be deposited in the same bank to meet the monthly installments as they fall due. She therefore asked for authority to mortgage certain lands of the estate with Torrens titles in order to obtain this loan. The desired authority was granted by the court on January 31, 1919. Thereafter, the administratrix obtained loans as follows from the Philippine National Bank: two separate loans of P5,000 each on March 11, 1919, and another for P10,000 on April 11, 1919 (Exhibit 5, P. N. B.), all of which being secured by a first and second mortgage constituted by the said administratrix on thirteen parcels of land belonging to the estate, among which were the six parcels devised to the Roman Catholic Church as above stated.

On November 20, 1919, the appellant administratrix filed a motion (Exhibit H) asking that the declaration of heirs made by the testator in his will be confirmed, and that a commission be appointed to make a nominal division of the estate, the word "nominal" being used because, according to the terms of the will, all of the property was to remain in possession of the appellant administratrix in usufruct. This motion was granted by order of December 13, 1919 (Exhibit I), the court declaring the appellant administratrix the universal heir of the testator and providing that "mientras vive la viuda Da. Eugenia M. Santos e interin no se pagan las deudas del difunto testador ocasionadas por la implantacion de la luz electrica establecida en Guinobatan, dichos legatarios no podran tomar posesion de sus respectivos legados, de modo que la reparticion que se hace en esta testamentaria no es mas que nominal." In the same order the court also appointed a commissioner to partition the estate in accordance with the will "a fin de terminar definitivamente esta testamentaria y poder registrarse en el Registro de la Propiedad de esta

provincia." On August 28, 1920, the administratrix submitted the commissioner's report of the nominal partition (Exhibits G and G-1 or 11 and 12, P. N. B.), in which report the six parcels of land above referred to were assigned to the Roman Catholic Church, and the electric plant, to the widow, Eugenia M. Santos Vda. de Orense. In the report mention was again made of the conditions of the will that the legatees cannot take possession of the legacies while the widow lived, and as a special reason why the legatees cannot take possession, it was further claimed that the estate is in debt to the Philippine National Bank in the sum of P35,000 and to the Pacific Commercial Company in the sum of P15,000, making in all P50,000. This nominal partition of the estate was approved in an order of the court dated September 4, 1920.

After this partition was made, and without previous license from the court nor with the consent and approbation of the legatee, the Roman Catholic Church, the appellant administratrix again secured loans from the Philippine National Bank, one for P10,000 on August 1, 1921, and two separate loans of P10,000 each on March 31, 1922 (Exhibit 5, P. N. B.), all of which being secured by a third mortgage on the same thirteen parcels of land previously mortgaged to the Philippine National Bank. The mortgage indebtedness not having been paid, the Philippine National Bank foreclosed the mortgage, and on April 30, 1937, the mortgaged properties in question were sold at public auction, in which sale the said bank was the highest bidder. The sale was confirmed by the court on June 22, 1937.

The plaintiff-appellee herein, the Bishop of Nueva Caceres, as legal representative and administrator of the general interest of the Roman Catholic Church in the diocese of Nueva Caceres, presented a third-party claim prior to the auction sale, and on July 14, 1937, filed the present reivindicatory action against the Philippine National Bank and the administratrix, Eugenia M. Santos Vda. de Orense, to recover the ownership of the parcels of land devised to the Roman Catholic Church by the deceased, alleging that the various mortgages constituted thereon by the said administratrix in favor of the defendant bank were null and void, on the ground that they were executed without the knowledge and consent of the plaintiff legatee and were made to secure not the indebtedness of the estate but her own personal obligations occasioned by the business operation of the electric plant, which had been adjudicated to her allegedly as her share of the conjugal partnership. The defendant-appellant bank made answer denying generally and specifically the allegations of the complaint, and by way of special defenses alleged: (1) that the mortgages were lawfully and legally constituted; (2) that the plaintiff legatee impliedly gave its consent to the constitution of the said mortgages over the properties in question; (3) that the plaintiff by his silence, acquiescence, and gross negligence is now estopped from questioning the validity or legality of the said mortgages; and (4) that the plaintiff's right of action, if any, has prescribed. As an additional defense interposed by the defendant administratrix, it was alleged that the plaintiff has no right of action on the ground that his right to the legacy has not as yet matured.

After trial and consideration of the evidence presented by the parties, the lower court on May 31, 1938, rendered a decision, the dispositive part of which recites as follows:

"Fundandose en los hechos y consideraciones expuestos, el Juzgado dicta sentencia; declarando a la demandante duena legitima de las parcelas de terreno descritas en la demanda, sujetas al usufructo de la demandada Eugenia M. Santos Vda. de Orense durante la vida natural de esta; declarando nulo y sin efecto la Venta hecha por el sheriff provincial de Albay de 30 de abril de 1937, en relation con el asunto civil No. 5524 de este Juzgado en cuanto afecta a dichas parcelas de terreno.

"Se condena a la demandada Eugenia M. Vda. de Orense, personalmente, a pagar a la contrademandante Banco Nacional Filipino la cantidad de P22,026.22 menos la cantidad de P2,070 que es el importe de la venta de las otras propiedades hipotecadas al Banco Nacional Filipino, con intereses sobre el restante de 8 por ciento anual desde mayo 1, 1937, hasta su completo pago.

"Se ordena al Registrador de Titulos de la Provincia de Albay, que expida Certificado de Transferencias de Titulos a favor de la demandahte sobre los lotes Nos. 9, 10, 11, 12, 13, 14, y 15 que aparecen descritos en el Certificado Original de Titulo No. 936, cancelando el gravamen sobre dichos lotes a favor del Banco National Filipino.

"Se sobreseyo la reconvenccion del demandado Banco Nacional Filipino.

"Se absuelve de la demanda al sheriff provincial demandado sin pronunciamiento en cuanto a las costas.

"Asi se ordena."

The grounds for this conclusion are set forth at length in the decision of the lower court, but the principal one is contained in the following portion thereof:

"El negocio de alumbrado publico electrico que dio lugar al prestamo del Banco Nacional Filipino y a las hipotecas sobre las propiedades en cuestion, se instalo, seguin se desprende de los exhibits 3 y 4 P. N. B., por la albacea de la testamentaria, si bien es verdad de la idea de emprender ese negocio era del finado testador quien en vida habia contratado la compra de la correspondiente maquinaria. La albacea, al continuar dicho negocio, lo hizo no necesariamente para el beneficio de la testamentaria sino mayormente para el propio beneficio de ella que era heredera universal, no obstante el hecho de que las maquinarias formaban parte de los bienes gananciales entre ella y el finado Eusebio Orense (Exhibit K). La instalacion del alumbrado publico electrico y su consiguiente operation no se hicieron previa automation expresa del Juzgado, aunque es verdad que el Juzgado tenia conocimiento de una y otra al autorizar la obtencion del prestamo de P10,000 del Banco Nacional Filipino para pagar el importe de las maquinarias que habian llegado despues de la muerte del causante de la testamentaria. El mencionado alumbrado publico electrico fue adjudicado en el informe de Repartition aprobada el 4 de septiembre de 1920, a la viuda Eugenia M. Santos, de acuerdo con el testamento, y dicha viuda, el 18 de octubre de 1920, vendio el negocio a la Bicol Electric Light and Power Plant, Inc. por la cantidad de P55,000, de la cual P40,000 se pagaron al contado y el resto de P15,000 se prometio pagar al Banco Nacional Filipino por la compradora quien asumio y subrogo a la vendedora en la obligation de pagar dicha cantidad de P15,000 (Exhibit Q)."

From the foregoing judgment both defendants have appealed by bill of exceptions. The defendant Philippine National Bank submits the following assignment of errors:

"I. The mortgage executed by the defendant Eugenia M. Santos Vda. de Orense, as administratrix of the estate of the deceased Engracio Orense (civil case No. 2867—Albay) in favor of the appellant bank to secure a loan granted said administratrix, was made pursuant to an authority given by the Court of First Instance of Albay in civil case No. 2867 and hence the Court a quo erred in declaring said mortgage null and void.

"II. The lower court erred in not declaring that the plaintiff has no right of action as his right to the legacy on which he founded his pretension has not as yet matured.

"III. Even granting that the mortgage in question was not validly constituted, yet the court a quo erred in declaring that the action of the plaintiff has not as yet prescribed, and in not declaring that the implied acquiescence of the plaintiff constitutes estoppel.

"IV. In the auction sale of April 21, 1937 of the properties in question, the plaintiff filed a third party claim, which made it impossible for the defendant bank to sell the properties which it acquired at public auction at a price sufficient to cover up the total daim of the said bank against the estate of Engracio Orense, and hence the court a quo erred in dismissing the counterclaim of the defendant bank.

"V. The court a quo erred in denying the motion for new trial of the defendant bank."

The defendant Eugenia Santos Viuda de Orense, on the other hand, attributes the following errors to the lower

court:

"1. El Juzgado inferior erro al declarar, que la hipoteca obtenida del Banco Nacional demandado por la demandada Eugenia M. Santos Viuda de Orense, fue en beneficio de e"sta y que la misma es ilegal.

"2. El Juzgado inferior err6 al no declarar que sea cual fuere, la naturaleza de la hipoteca de las propiedades legadas, el importe de los prestamos obtenidos del Banco Nacional demandado ha sido destinado al pago de deudas propias del finado testador Engrasio Orense."

The assignments coincide in the basic statement of the errors attributed to the court below. For this reason, the errors need not be considered seriatim but jointly and generally.

The primary question to be determined is whether or not the various mortgages executed by the appellant administratrix on March 11, 1919; April 11, 1919; August 1, 1921; and March 31, 1922, are valid. We shall first consider the mortgages executed on March 11, 1919, and April 11, 1919, for the reason that the law applicable to the transaction at the time of the constitution of the said mortgages was section 714 of the Code of Civil Procedure (Act No. 190) prior to its amendment by Act No. 2884. It is admitted that the mortgage executed on March 11, 1919, was made in pursuance of the authority granted by the probate court on January 31, 1919. Whether the subsequent mortgage executed on April 11, 1919, was also made in virtue of this authority is not, however, clear. At any rate, this doubt is of no moment as we take the view that prior to the amendment of section 714 by Act No. 2884, executors and administrators were without authority to mortgage the property of an estate, and mortgages so executed were void and of no effect, even if made with the express approval of the probate court. (Vide *Lizarraga Hermanos vs. Abada*, 40 Phil., 124; Cf. *Rodriguez vs. Bo-romeo*, 43 Phil., 486). Act No. 2884 amending section 714 of the Code of Civil Procedure, and which was enacted expressly for the purpose of "authorizing executors and administrators, under certain conditions, to mortgage or otherwise encumber the realty of the estate" (Title of the Act), took effect only on February 24, 1920, or after the mortgages above referred to were constituted. It is clear, therefore, that their execution having been made by the appellant administratrix without legal warrant is a patent nullity, and the authority granted by the court therefor could not change this result.

As to the mortgages executed on August 1, 1921, and March 31, 1922, it appears that they were made after the project of partition was approved by the court, and without judicial authority nor with the knowledge and consent of the plaintiff legatee. The appellant bank's pretension that the mortgages were executed with the plaintiff-appellee's implied knowledge and consent is premised on the fact that, when the administratrix presented her motion of June 22, 1921, asking authority of the court to sell certain properties of the estate to pay an alleged indebtedness to the bank, the parish priest of Guinobatan, Rev. Julian Ope, signified his conformity thereto at the bottom of the petition. It is worthy to note that this petition referred to a proposal to sell certain properties of the estate, and that in *Santos vs. Roman Catholic Bishop of Nueva Caceres*, 45 Phil., 895, 900, one of the grounds for the revocation by the lower court of its order granting the license to sell was that the parish priest had no control over the temporalities of the Roman Catholic Church and that, therefore, the consent given was invalid and of no legal effect. In that case wherein the same parcels of land here controverted were the subject-matter of controversy between the herein plaintiff-appellee and the appellant administratrix, Eugenia M. Santos Viuda de Orense, this Court held that when the partition here adverted to had become final, the title to the estate in remainder devised to the Roman Catholic Church had become vested, and that as far as the title to the property was concerned, the administration proceedings had terminated. Under these circumstances, it seems obvious that, without inquiring as to whether the loans were secured for the benefit of the estate or for the personal benefit of the widow, Eugenia M. Santos, the latter could not encumber the property without the knowledge and consent of the owner, *ab dominio directo*, whether she did so in her capacity as usufructuary or as administratrix of the

estate. Upon the other hand, the property may still be subject to the payment of the debts of the deceased and legitimate expenses of administration, but such a lien may only be enforced upon proof of the existence of valid claims against the estate and upon taking the necessary judicial steps marked by law for that purpose. We, therefore, hold that the mortgages, executed on August 1, 1921, and March 31, 1922, are likewise null and void.

The next question presented concerns the right of action of the plaintiff-appellee against the defendants-appellants, in view of the conditions of the will that the legatees cannot take possession of the legacies while the widow lived, and in view of the further condition imposed by the probate court in its order of December 13, 1919, confirming the institution of heirs made by the testator in his will, that such possession shall not be taken while the debts of the deceased occasioned by the establishment of the electric light plant in Guinobatan remained unpaid. It is the contention of the defendants-appellants that, under these circumstances, the present reivindicatory action filed by the plaintiff-appellee was prematurely brought. We do not think so. As hereinabove adverted to, the title to the estate in remainder devised to the Roman Catholic Church had become vested from the moment the order of the probate court approving the distribution of the estate had become final. It is true that the partition made was denominated "nominal", but it was nominal merely in the sense that all of the property was to remain in possession of the surviving spouse in usufruct during her lifetime and did not in any way impair the right of ownership which had accrued by virtue thereof. It is likewise true that the court had imposed as a further condition that possession shall not be taken while the debts of the deceased occasioned by the establishment of the electric light plant remained unpaid, but this again has reference merely to the right of possession and was imposed to protect the rights of creditors who may present legitimate claims against the estate occasioned by the establishment of the said electric light plant.

Finally, it is contended by the defendant-appellant that granting the mortgages in question were not validly constituted, the right of the plaintiff-appellee to bring this action has already prescribed. This contention is based on the assumption that the plaintiff-appellee's cause of action accrued at the time said mortgages were executed. In this we think the appellants are in error. As the present action was brought for the recovery of the right of ownership, plaintiff-appellee's cause of action accrued on June 22, 1937, the date when, upon confirmation by the court of the sheriff's sale of the property on account of the foreclosure of the mortgage, such right became vested in the purchaser (Sec. 257, Act No. 190) ; and the complaint was filed on July 14, 1937, or less than a month afterwards.

Counsel for the appellant-administratrix vehemently argues for the validation of the mortgages hereinabove mentioned and points to the undeniable fact that the obligation amounting to P15,590 contracted with the Pacific Commercial Company was so contracted by the testator in his life time, which obligation had to be met by the surviving wife, if for no other reason than to honor the name and memory of the deceased. We are not indifferent to the impelling force of this sentiment. Outweighing this argument, however, are potent considerations of public policy in the administration and settlement of the estate of a deceased person to protect the rights and interests of the heirs, devisees no less than the creditors, and in the interest of orderly administration of justice. Upon the other hand, we have not overlooked the fact that the electric plant and its appurtenances and the franchise thereto were assigned to the appellant-administratrix as her share in the distribution, and that it appears that she subsequently sold the plant for a considerable sum of money to the Bicol Electric Light and Plant Co. (Exhibit Q), and this company assumed the remainder of the obligation with the bank. Under the circumstances, it seems equitable that the loans alleged to have been obtained for the purpose above indicated should not be made to fall on the properties devised to the Roman Catholic Church, if we were to avoid defeat of the legitimate religious preferences of the deceased expressed in the form of material endowment to his Church.

The judgment appealed from is therefore affirmed. The titles shall be issued to the plaintiff-appellee in his

representative capacity subject to the usufructuary right of Eugenia M. Santos Vda. de Orense during her life time, without pronouncement regarding costs. So ordered.

Avancena, C. J., Imperial, Diaz, and Horrilleno, JJ., concur.

Moran, J., concurs in the result.

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