

**IN THE MATTER OF THE TESTATE ESTATE OF AGAPITA TIONGSON.
COMMONWEALTH OF THE PHILIPPINES, PETITIONER AND
APPELLEE, VS. TEODORO SANDIKO AS ADMINISTRATOR OF THE
ESTATE, OPPONENT A...**

G.R. No. 47686. June 10, 1941

Ponente: MORAN, J.

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MORAN, J.:

During his marital life with one Mercedes Tionson to whom he was married in 1901, Teodoro Sandiko acquired, by purchase, several properties among which are the three parcels of land in question, situated in the province of Pampanga and separately assessed at P33,779.84, P10,160, and P209.63. In 1931, Mercedes Tionson died intestate and was survived by her husband and her only sister Agapita Tionson. Several years thereafter, Teodoro Sandiko applied for the registration, in his own name, of the three parcels aforesaid, and having been adjudged to him, certificates of title were issued in his name, "married to Gregoria Morales." On April 8, 1937, Agapita Tionson died, and in her will she instituted Teodoro Sandiko as one of her heirs with a share of one-half of her entire estate. The Collector of Internal Revenue filed a claim for inheritance taxes on the property inherited by Agapita Tionson from her sister Mercedes, to which Teodoro Sandiko, as administrator of Agapita Tionson's estate, filed his opposition on the three parcels of land above alluded to. The exemption is predicated upon the ground that said three parcels were his own exclusive properties and not of the conjugal partnership between him and his deceased wife Mercedes. The trial court declared the properties conjugal and ordered Sandiko to pay the inheritance taxes thereon. Hence, this appeal.

Appellant's claim to exclusive ownership of the parcels in question, as basis for exemption from inheritance taxes, rests on two grounds: (1) that the deeds of purchase thereof were in his name alone, and (2) that the subsequent certificates of registration were also in his name alone. Neither of these two factors is a decisive test of exclusive ownership in the instant case. Settled is the rule that in the absence of affirmative evidence to show that the acquisition was with the money belonging exclusively to one of the spouses, properties acquired during coverture shall be presumed conjugal (art. 1401, Civil Code; *Ramirez vs. Bautista*, 14 Phil., 528, 530; *Sison vs. Ambalada*, 30 Phil., 118; *Staples-Home vs. Building & Loan Assoc*, 36 Phil., 417), even if the title thereto has been taken in the name of one of them only (*Guinguing vs. Abuton*, 48 Phil., 144, 148). And, in *Flores vs. Flores* (48 Phil., 288, 290-291), upon an issue identical with the instant one, this court ruled that a surviving husband who obtains a Torrens title to land which has pertained to the conjugal estate does not make the property absolutely his; it must be treated as ganancial property until the conjugal partnership is liquidated.

Judgment is affirmed, with costs against appellant.

Avanceña, C. J., Diaz, Laurel, and Horrilleno, JJ., concur.

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