

MARIA FALCON, PLAINTIFF AND APPELLEE, VS. NARCISO L. MANZANO, DEFENDANT AND APPELLANT.

G.R. No. 5054. March 15, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

The plaintiff herein alleged that she, together with her former husband (now deceased) Paulino Rendon, in the month of July, 1900, sold to the defendant a parcel of land, with the improvements thereon, located in the municipality of Atimonan in the Province of Tayabas, for the sum of \$1,250 gold, or the sum of 2,999 pesos, Mexican currency, the sum of 2,999 pesos, Mexican currency, being the alleged value of the \$1,250 gold at the time of the alleged sale.

The plaintiff admitted that the defendant had paid on the said contract the sum of 2,500 pesos, and alleged that there was still due the sum of 499 pesos. The plaintiff prayed in her petition that the contract of sale be declared void for the failure of the defendant to comply with its terms, and that said property be returned to her upon the payment by her, to the defendant, of the sum which the defendant had actually paid upon the said contract. To this petition the defendant demurred, which demurrer the court overruled.

Upon the overruling of the demurrer, the defendant answered denying each and all of the facts alleged in the complaint and, for a special defense, alleged that the said action was prescribed; that the plaintiff had no interest in the litigation of the question presented, and that she signed the contract of purchase simply as the wife of Paulino Rendon; that he had never entered into a contract with the plaintiff for the purchase of the land in question.

The lower court, after hearing the evidence adduced during the trial of the cause, said:

"The undisputed testimony shows that Paulino Rendon, with his wife, the plaintiff in this case, sold a house and lot in Atimonan for \$1,250, gold coin of the United States, that being in circulation at the time. When the contract of sale came to be drawn up and signed, to insure the payment in gold the consideration was made 2,999 pesos.

"It is admitted that only 2,500 pesos was paid on this sale, but it is insisted that silver being worth at that time 2 pesos for one gold dollar, that the obligation was discharged. This could not have been the agreement or the reasonable construction of it, or 2,999 pesos would not have been named as the consideration in the written contract of sale.

"It is urged that this plaintiff can not recover, because this amount of 499 pesos, if due any one, is due the estate of the deceased Paulino Rendon, and that only his administrator could maintain a suit for the amount.

"I can not agree with this theory of the plaintiff. It was the undisputed proof that she and her husband acquired the property long after their marriage in 1881; she is the absolute owner of one-half of the property under the law, and if there is no administration of her husband's estate this can not debar her of her right to recover her part of the estate.

"The children of the deceased Paulino Rendon may or may not be of age and may not wish to join in this suit. They are not parties to this suit and do not ask for an adjudication of their rights, but the plaintiff does. I am of the opinion that she has a legal right to recover one-half of the amount contracted by the defendant to pay for the house, if not paid in \$1,250 gold coin, less the 2,500 pesos, paid on the contract price.

"Therefore it is the order and judgment of this court that the plaintiff recover of the defendant 249.50 pesos, with interest at 6 per cent per annum, from this date, until paid, and the costs of this suit."

From this judgment of the lower court the defendant appealed and made the following assignments of error:

First. That the lower court committed an error in conceding to the plaintiff, in his sentence, a remedy which was not prayed for in the complaint.

Second. That the lower court committed an error in holding that the plaintiff was the proper person to maintain the action in question.

With reference to the first assignment of error it will be noted that the plaintiff prayed that the contract of purchase be declared null and that the property be returned to her upon her returning to the defendant the amount of money which the defendant had already paid upon said contract.

The lower court rendered a judgment in favor of the plaintiff for one-half of the unpaid purchase price. The question presented in the petition was not even discussed by the lower court, to wit: the right of the plaintiff to have the contract declared null and the property in question returned to her. The court, in rendering its decision, ought to have limited itself to the issues presented by the parties in their pleadings.

With reference to the second assignment of error, the defendant and appellant, relying upon section 685 of the Code of Procedure in Civil Actions, contends that the plaintiff was without authority to maintain the present action.

Said section 685 provides as follows:

"Community property. - One-half the community property, as determined by the law in force in the Philippine Islands before the 13th day of August, 1898, belonging to a husband and wife, shall be deemed to belong to the deceased husband or wife, and shall be inventoried and accounted for, and distributed as a part of the estate, in the same manner as all other property belonging to the estate."

This section has already been interpreted by this court in the case of *Alfonso vs. Natividad* (6 Phil. Rep., 240). In that case it was said (p. 243):

"This section can not be so construed as to require one-half of the property of the conjugal partnership to be inventoried as the exclusive property of the deceased spouse before any settlement of the affairs of the partnership. Such a construction would be in direct violation of the law, which requires that the partnership property be used to pay its debts, and provides that one-half of the net proceeds only belong to each spouse. (Art. 1426, Civil Code.) This section (685) must mean that when the partnership affairs have been settled, and all its debts and obligations discharged, then one-half of the net proceeds shall be considered as the exclusive property of the deceased spouse."

By the provisions of the new Code of Civil Procedure, in the settlement of the estates of deceased persons, it is necessary to appoint commissioners, before whom the creditors of the deceased must present their claims, within a time fixed by the court.

The husband is the administrator of the conjugal partnership (art. 1412, Civil Code). Debts contracted during this administration by the husband are payable out of the conjugal partnership property (art. 1422, Civil Code). The amount of the conjugal property to be distributed can not, therefore, be determined until after the debts are paid.

The surviving spouse can not claim one-half of the conjugal property until after the liquidation of the debts. While the proportion of the participation of the surviving spouse in the conjugal property is fixed by law, the amount can not be determined until after the debts are paid.

It is true, under the provisions of the Code of Procedure in Civil Actions, that the heirs, if adults, may agree upon a division of the estate (sec. 596, Code of Procedure) by assuming the payment of the debts, if any, against the estate. Until it appears that the heirs have by mutual agreement among themselves agreed to a division of the estate, assuming thereby the obligation to pay the debts, the wife, no more than any of the other heirs, has a right to sue for her participation in the conjugal property. Unless the adult heirs agree to a division of the inheritance, the estate must be administered in accordance with law, by the appointment of an administrator, and by the appointment of commissioners to hear claims against the estate.

The judgment of the lower court is therefore declared to be of no effect and the cause is hereby remanded to the lower court with direction that such steps be taken as may be necessary for the proper division or administration of the estate of Paulino Rendon.

Without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Mapa, Carson, and Moreland, JJ., concur.

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