

**DR. FERNANDO PERIQUET, JR., PETITIONER, VS. HONORABLE
FOURTH CIVIL CASES DIVISION OF THE INTERMEDIATE APPELLATE
COURT AND THE HEIRS OF THE LATE FELIX R. FRANCISCO,
RESPONDENTS.**

G.R. No. 69996. December 05, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Spouses Fernando Periquet and Petra Francisco were left childless after the death of their only child, Elvira,[1] so they took in a son out of wedlock[2] of Marta Francisco-Reyes, sister of Petra. Though he was not legally adopted, the boy was given the name Fernando Periquet, Jr. and was reared to manhood by the spouses Periquet. He is the petitioner in the instant case.

On March 20, 1966, Fernando Periquet died. He left a will dated March 28, 1940 wherein he named his wife Petra as his universal heir. Accordingly, Petra instituted Special Proceedings No. Q-10004 entitled "In the Matter of the Petition to Approve the Will of Fernando Periquet" for probate of his will.

On July 28, 1966, only four (4) months and eighteen (18) days later, Petra died. Thereafter, Special Proceedings No. Q-11074 entitled "In the Matter of the Intestate Estate of Deceased Petra Francisco Vda. de Periquet" was instituted by her nephew, Florentino Zaragoza.

Petra Francisco Vda. de Periquet was survived by the following heirs, namely: Felix Francisco, her brother; Marta Francisco-Reyes, her sister; Josefa and Felix Francisco, children of her deceased brother, Mariano Francisco; and Florentino Zaragoza, Zacarias Zaragoza, Alberta (Betty) Zaragoza-Morgan and Gloria Zaragoza-Nunez, children of her deceased sister, Josefa Francisco de Zaragoza.

In the meantime, a few days before her death, Petra asked her lawyer to prepare her last will and testament. However, she died before she could sign it. In the said will, Petra left her estate to petitioner, Fernando Periquet, Jr. and provided for certain legacies, to wit: P10,000.00 for Felix Francisco, P10,000.00 for Dolores Periquet, P10,000.00 for Carmen Periquet, P10,000.00 for Belen Periquet de Jesus, and P5,000.00 each for Lydia Periquet and Jose Periquet, Jr.

On August 3, 1966, Felix Francisco executed the following document, viz:

ASSIGNMENT OF HEREDITARY RIGHTS

KNOW ALL MEN BY THESE PRESENTS

This Instrument made and entered into by and between --

FELIX R. FRANCISCO, Filipino, of legal age, married and residing at Lagao, Gen. Santos, Cotabato, Philippines, hereinafter referred to as the ASSIGNOR,

- and -

FERNANDO PERIQUET, JR., Filipino, of legal age, single, and residing at 24 Ilang-ilang, Quezon City, hereinafter referred to as the ASSIGNEE.

WITNESSETH

WHEREAS, the ASSIGNOR is a brother and one of the intestate heirs of the late Petra Francisco Vda. de Periquet who died last July 28, 1966 while a resident of 24 Ilang-ilang, Quezon City;

WHEREAS, the ASSIGNOR knows for a fact that said deceased caused the preparation of a will which she was not able to sign in view of her sudden and untimely death;

WHEREAS, the ASSIGNOR knows for a fact that the said deceased under the Last Will and Testament which she has caused to be prepared but which she was not able to sign, has given, devised and bequeathed to Dr. Fernando Periquet, Jr. her entire estate with the exception of the sum of FIFTY THOUSAND PESOS (P50,000.00) which she has bequeathed as follows:

To Felix Francisco

-

P 10,000.00

To Dolores Periquet

-

10,000.00

To Carmen Periquet

-

10,000.00

To Belen Periquet de Jesus

-

10,000.00

To Lydia Periquet

-

5,000.00

To Jose Periquet, Jr.

-

5,000.00

Total

-

P50,000.00

WHEREAS, the ASSIGNOR desires to honor, respect and give full effect to the above-mentioned last wishes of the deceased Petra Francisco Vda. de Periquet with regards to the disposition of her estate;

NOW, THEREFORE, for and in consideration of the aforementioned desire of the ASSIGNOR to honor, respect and give full effect to the last wishes of the deceased Petra Francisco Vda. de Periquet as shown in her unsigned last will and testament, the ASSIGNOR has assigned, transferred and conveyed and by these presents do hereby assign, transfer and convey unto the ASSIGNEE all his rights, titles and interests in and to the intestate estate of the late Petra Francisco Vda. de Periquet.

This Deed of Assignment shall retroact as of the date of the death of Petra Francisco Vda. de Periquet.

The ASSIGNEE hereby accepts the above assignment made by the ASSIGNOR.

To give full effect to the above assignment, the ASSIGNOR does hereby nominate, constitute, and appoint the ASSIGNEE as his true and lawful attorney-in-fact, for him and in his name, place and stead, to do and perform the following acts and things, namely: to represent him in any judicial or extrajudicial settlement of the estate of the deceased Petra Francisco Vda. de Periquet; to sign, execute and deliver any and all contracts and documents in connection therewith; to sign and execute any project of partition or extrajudicial partition; to demand, receive, take possession and dispose, under such terms and conditions as he may deem best, of any and all properties and sums of money which are or may be due him from said estate; to endorse notes, checks or drafts payable to him from the said estate; and to do and perform all and every acts and things which may be requisite, necessary or proper to carry out all the above purposes.

IN WITNESS WHEREOF, the parties have signed these presents in Makati, Rizal, Philippines this 3rd day of August, 1966.

(Sgd.) (Sgd.)

FELIX R. FRANCISCO FERNANDO PERIQUET, JR.

Assignor Assignee

SIGNED IN THE PRESENCE OF

(Witness) (Witness)[3]

On the same date, Marta Francisco-Reyes executed a Deed of Assignment of Hereditary Rights in favor of Fernando Periquet, Jr.[4] A joint affidavit was likewise executed by them (Marta and Felix) appointing herein petitioner as administrator of the testate estate of Fernando Periquet[5] in lieu of Petra Francisco Vda. de Periquet.

On August 11, 1966, Zacarias Zaragoza and Gloria Zaragoza-Nunez executed similar deeds assigning their hereditary rights to petitioner.[6] On January 26, 1967, Josefa Francisco and Felix Francisco did the same.[7] Florentino Zaragoza and Alberta "Betty" Zaragoza?Morgan, however, refused to execute deeds of assignment in favor of petitioner.

On December 13, 1969, petitioner entered into a compromise agreement with the Zaragozas and the intervenors, the Periquets, in Special Proceedings Nos. Q-10004 and Q-11074. The compromise agreement reads in full:

COMPROMISE AGREEMENT

COME NOW the parties in the above-entitled cases, assisted by their respective counsels and to this Honorable Court, respectfully submit the following Compromise Agreement:

1. That all parties herein hereby acknowledge the validity of the Last Will and Testament of Fernando Periquet dated March 28, 1940 which was admitted to probate by this Honorable Court on May 28, 1966, and that the

sole and only testate heir of the late Fernando Periquet at the time of his death on March 20, 1966 was his wife Petra Francisco Vda. de Periquet who died intestate on July 28, 1966;

2. That in consideration of the total sum of P67,500.00 to be paid as hereinafter specified the INTERVENORS herein agree to withdraw their Motion for Intervention and hereby waive any and all claims, rights, interest, participation, actions, causes of actions in or against the estates of Fernando Periquet and Petra Francisco Vda. de Periquet, their heirs, successors in interest, administrators and assigns;

3. That in consideration of the total amount of P67,500.00 to be paid as hereinafter specified, Florentino Zaragoza, Alberta (Betty) Zaragoza Morgan, Zacarias Zaragoza and Gloria Nunez, (hereinafter referred to as the ZARAGOZAS) hereby assign, transfer and waive in favor of Dr. Fernando Periquet, Jr. all their rights, title, interest, share and participation in and to the intestate estate of Petra Francisco Vda. de Periquet;

4. That the ZARAGOZAS hereby acknowledge the validity of the assignments of hereditary rights in the estate of Petra Francisco Vda. de Periquet executed by Marta Francisco Reyes, Felix R. Francisco, Joseph Francisco, Felix Francisco, Zacarias Zaragoza and Gloria Nunez (all intestate heirs of Petra Francisco Vda. de Periquet) in favor of Dr. Fernando Periquet, Jr.;

5. That the payment of P67,500.00 to the ZARAGOZAS includes the payment to Zacarias Zaragoza and Gloria Nunez of the balance due to them under the Deeds of Assignment they have executed in favor of Dr. Fernando Periquet, Jr. dated August 11, 1966 which documents are identified as Doc. No. 299, Page No. 88, Book No. VIII, Series of 1966, and Doc. No. 300, Page No. 88, Book No. VIII, Series of 1966, respectively of Notary Public Cirilo Ganzon in and for the City of Iloilo, which amount of P67,500.00 shall be distributed among them as they may agree among themselves;

6. That with the assignments executed by the heirs of Petra Francisco Vda. de Periquet in favor of Dr. Fernando Periquet, Jr. and the payment to the INTERVENORS and the ZARAGOZAS, all the parties herein recognize Dr. Fernando Periquet, Jr. (nephew of the deceased spouses Fernando and Petra) as the sole and only heir of the estates left by Fernando Periquet and Petra Francisco Vda. de Periquet;

7. That the parties herein agree to the appointment of Dr. Fernando Periquet, Jr. as the regular administrator of both the estates of Fernando Periquet and Petra Francisco Vda. de Periquet until the proceedings to settle said estates are finally terminated;

8. That in the event any claim of any kind or whatever nature other than those presently appearing in the records of these cases are presented against the said estates and/or Dr. Fernando Periquet, Jr. in his capacity as administrator or heir thereof, the parties herein agree to contribute to the payment of said claim or claims if and when proved, in the following proportion:

One-Fourth (1/4) By the intervenors (jointly and severally), with the exception of intervenor Aurelio Periquet, Sr.

One-Fourth (1/4) By the ZARAGOZAS (jointly and severally)

One-Half (1/2) by Dr. Fernando Periquet, Jr.

9. That as a security against such claims, the parties herein agree to post surety bonds from a reputable bonding company acceptable to all parties herein, in favor of the estate of Fernando Periquet and Petra Francisco Vda. de Periquet in the following amounts:

FIFTEEN THOUSAND PESOS (P15,000.00) for the ZARAGOZAS

FIFTEEN THOUSAND PESOS (P15,000.00) for the INTERVENORS, with the exception of intervenor Aurelio Periquet, Sr.

THIRTY THOUSAND PESOS (P30,000.00) (in the form of real property) for Dr. Fernando Periquet, Jr.

which bonds shall be valid and effective for a period of one year from date of approval of this Compromise Agreement;

10. That the final amount of P30,000.00 shall be paid to the Law Office of LEDESMA, GUYTINGCO & ASSOCIATES in full settlement of their services rendered in the settlement of these two estates, of which P25,000.00 shall be paid by the estates upon the approval of this Compromise Agreement and the balance upon the termination of these two cases;

11. That the payment of the sum of P67,500.00 to the INTERVENORS and the same amount to the ZARAGOZAS shall be withdrawn from the funds of the estate of Fernando Periquet deposited with the various banks and paid to said parties or their designated representative upon the approval by this Honorable Court of this Compromise Agreement. The INTERVENORS hereby individually authorize and empower Miss Dolores Periquet to receive and receipt for any and all sums due them under the Compromise Agreement. The ZARAGOZAS likewise hereby individually authorize and empower Mr. Florentino Zaragoza to receive and receipt for any and all sums due them under this Compromise Agreement;

12. That all claims which have not been paid in full per Motion of Special Administrator through his counsel dated May 20, 1969 shall be paid immediately upon approval of this Compromise Agreement;

13. That all residue of the two estates, real and personal, shall be adjudicated, assigned and transferred to the name of Dr. Fernando Periquet, Jr. upon the approval of this Compromise Agreement;

14. That in lieu of a surety bond in the amount of P30,000.00 Dr. Fernando Periquet, Jr. shall be restricted from assigning, transferring or conveying Lot 1, Block 33 comprising of 441 sq. m. and covered by T.C.T. No. 25144, Q.C., which is one of the real properties adjudicated to him under this Compromise Agreement, for a period of twelve months as his portion of the security for any unpaid claim that may appear within the said twelve months' period; the said surety undertaking shall be duly annotated in said title;

15. That in the event any of the heirs who have assigned their hereditary rights to Dr. Fernando Periquet, Jr. successfully repudiates or impugns the validity of the assignment they have executed in favor of the latter, the INTERVENORS and the ZARAGOZAS agree to a proportionate reduction of the amounts due them under this Compromise Agreement or to a proportionate return of the amounts received by them.

16. That Intervenor Aurelio Periquet hereby waives, assigns and transfers all and whatever rights, interests and participation which he may have in the estate of Fernando Periquet and Petra Francisco Vda. de Periquet in favor of Dolores Periquet, for which reason, he shall not be liable for any claim of any kind or whatever nature, the same being transferred likewise to his assignee, Dolores Periquet, who hereby assumes the said obligation, if any.

WHEREFORE, it is respectfully prayed that the above Compromise Agreement be approved and the corresponding order/s implementing the same be issued.

Manila for Quezon City, Philippines, December 13, 1969.[8]

Signatories to the compromise agreement were the petitioner, the Zaragozas (Florentino, Zacarias, Alberta and Gloria), the Periquets (Aurelio, Alfonso, Consuelo, Natividad, Marcelina, Francisco, Dolores, Belen and Milagros) and their respective counsels.

On December 20, 1969, the same agreement was approved by the trial court. Another order of even date was issued ordering the adjudication and transfer of the residue of the estate to herein petitioner.

On May 16, 1970, Felix R. Francisco, brother of Petra Francisco Vda. de Periquet, filed the instant action to annul the Assignment of Hereditary Rights he executed in favor of Fernando Periquet, Jr. and to recover his one-fourth (1/4) share in the estate of the late Petra Francisco Vda. de Periquet. The action for annulment was based on

"gross misrepresentation and fraud," "grave abuse of confidence," "mistake and undue influence," and "lack of cause and/or consideration" in the execution of the challenged deed of assignment.

On May 8, 1976, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered:

1. Declaring valid and binding the assignment of hereditary rights executed by plaintiff in favor of defendant, Exhibit B, but ordering and sentencing defendant to pay plaintiff the amount of P10,000.00 which defendant had promised to give plaintiff in consideration of said assignment;
2. Dismissing the third-party complaint and the different cross-claims.
3. There is no pronouncement as to costs.

SO ORDERED.[9]

On appeal to the then Intermediate Appellate Court, the said judgment was "modified" to read:

WHEREFORE, judgment is hereby rendered (a) modifying the decision of the Court a quo in the sense that the 'Assignment of Hereditary Rights' is hereby annulled or rescinded and appellant completely relieved from the legal effects thereof, (b) declaring and holding appellant FELIX R. FRANCISCO the owner of one-fourth (1/4) of all the estate of Petra Francisco Vda. de Periquet, made up of the residue of the combined estates of the deceased spouses Fernando Periquet and Petra Francisco Vda. de Periquet, which residue must be deemed to include the amounts paid to various other heirs and claimants and to appellee Dr. Fernando Periquet's counsel as well as the remainder of the estate adjudicated to appellee Dr. Fernando Periquet himself in Special Proceedings Nos. Q-10004 and Q-11074 of the Court of First Instance of Rizal, Branch IV sitting in Quezon City, (c) ordering defendant-appellee to pay unto the plaintiff-appellant the sum of P20,000.00 as moral damages, (d) ordering defendant-appellee to pay the sum of P5,000.00 as exemplary damages and P10,000.00 as attorney's fees.

Costs against defendant-appellee.

SO ORDERED.[10]

A motion for reconsideration of the above-quoted decision was filed by petitioner Periquet but the same was denied for lack of merit on February 1, 1985,[11] hence, the instant petition for review.

Petitioner Fernando Periquet, Jr. assails the respondent court's decision on the following grounds, to wit:

FIRST ASSIGNMENT OF ERROR

THE RESPONDENT COURT ERRED IN DISREGARDING AND IGNORING THE TRIAL COURT'S STRONG AND SUBSTANTIAL FINDINGS OF FACT THAT NO FRAUD, DECEPTION, GROSS MISREPRESENTATION OR UNDUE INFLUENCE ATTENDED THE EXECUTION AND SIGNING OF THE DEED OF ASSIGNMENT OF HEREDITARY RIGHTS (EXHIBIT B).

SECOND ASSIGNMENT OF ERROR

THE RESPONDENT COURT ERRED IN CONCLUDING THAT THERE WAS ALLEGEDLY NO CAUSE OR CONSIDERATION FOR THE EXECUTION OF THE DEED OF ASSIGNMENT OF HEREDITARY RIGHTS (EXHIBIT B)

THIRD ASSIGNMENT OF ERROR

THE RESPONDENT COURT ERRED IN DISTURBING AND SETTING ASIDE THE ORDERS, DECREES AND PROCEEDINGS TAKEN IN SPECIAL PROCEEDING NOS. Q-10004 AND Q-11074 OF THE THEN COURT OF FIRST INSTANCE OF QUEZON CITY.

FOURTH ASSIGNMENT OF ERROR

THE RESPONDENT COURT ERRED IN ANNULING OR RESCINDING THE DEED OF ASSIGNMENT OF HEREDITARY RIGHTS AND RELIEVING FELIX R. FRANCISCO COMPLETELY FROM THE LEGAL EFFECTS THEREOF.

FIFTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN AWARDING MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES TO FELIX R. FRANCISCO.[12]

Meanwhile, on December 28, 1980, private respondent Felix R. Francisco passed away, hence, in a resolution dated September 23, 1985, the court allowed his heirs to be substituted in his stead. In the same resolution, we likewise recognized Manuel Macias, the first counsel of Felix Francisco, as an intervenor in the instant petition.

Petitioner Fernando Periquet, Jr. contends that the execution of the assignment of hereditary rights in his favor by Felix R. Francisco was not tainted with fraud, deception, gross misrepresentation, or undue influence because the latter read the instrument, understood its import and later signed the same freely and voluntarily. There was likewise true and valid consideration in the execution of the instrument.

On his part, Felix R. Francisco alleges that petitioner committed a number of unmistakable acts of fraud. He claims that he was rushed into signing the instrument he never read nor was explained to him. He further contends that petitioner abused the confidence he reposed on him when the latter failed to make good his promise to give him P10,000.00 as consideration for the execution of the deed of assignment.

We sustain the petitioner.

The kind of fraud that will vitiate a contract refers to those insidious words or machinations resorted to by one of the contracting parties to induce the other to enter into a contract which without them he would not have agreed to.[13] It must have a determining influence on the consent of the victim.[14] The will of the victim, in effect, is maliciously vitiated by means of a false appearance of reality.[15]

In the case at bench, no such fraud was employed by herein petitioner. Resultantly, the assignment of hereditary rights executed by Felix Francisco in favor of herein petitioner is valid and effective.

Felix Francisco could not be considered to have been deceived into signing the subject deed of assignment for the following reasons, viz:

First, the assignment was executed and signed freely and voluntarily by Felix Francisco in order to honor, respect and give full effect to the last wishes of his deceased sister, Petra. The same was read by him and was further explained by Atty. Diosdado Guytingco.[16] Furthermore, witnesses for petitioner, Antonio Eugenio and Elias Fermin, who also served as witnesses in the execution and signing of the deed of assignment testified to the foregoing.[17] They declared that Felix Francisco was neither forced nor intimidated to sign the assignment of hereditary rights. He did so out of his own free will and volition.

Second, there was valid cause or consideration in the execution of the assignment of hereditary rights. Contrary to

the trial court's finding that the amount of P10,000.00 as promised by Dr. Fernando Periquet, Jr. to Felix Francisco is the cause or consideration of the assignment, we find and so rule that it was the generosity or liberality of Felix Francisco that impelled him to execute the questioned instrument. Pure beneficence, not monetary consideration, was the moving force because Felix wanted to respect the wishes of a deceased sibling. Consequently, the award of P10,000.00 to private respondent Felix Francisco as consideration of the assignment of hereditary rights is eliminated, the deed thus executed being merely gratuitous in nature.

Third, the allegation of fraud is an afterthought on the part of the assignor, Felix Francisco who filed the instant case to annul the deed of assignment on the ground of fraud only in 1970, almost four (4) years after he executed the instrument. He initiated the proceedings immediately upon learning from his niece, Gloria Zaragoza that a compromise agreement was reached by the parties in Special Proceedings Nos. Q-10004 and Q-11074 and that they were to receive certain amounts from the settlement.[18] In fact, Felix even admitted in his testimony that he was waiting for the outcome of the cases before filing his own independent action.[19]

Clearly, Felix slept on his rights and allowed laches to set in. This is fatal to his case. Laches is failure or neglect, for an unreasonable length of time to do that which by exercising due diligence could or should have been done, earlier; it is negligence or omission to assert a right within a reasonable time warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[20] He could have intervened in Special Proceedings Nos. Q-10004 and Q-11074. He did not do so. He cannot feign ignorance of the existence of the said cases as he was actually waiting for their final disposition before asserting his own rights. Neither did he raise fraud nor cry out for the improper execution of the deed of assignment prior to the instant action. He never confronted petitioner about his alleged share in the estate of the deceased in the period between 1966[21] and 1970[22], thus, raising the incontrovertible conclusion that fraud never attended the execution of the deed of assignment. He decided to holler foul and raise the defense of fraud only upon learning that a compromise agreement was entered into by the petitioner, the Francisco-Zaragozas, and the Periquets.

Moreover, fraud is a question of fact and the circumstances constituting the same must be alleged and proved in the court below.[23] The allegations of fraud, deception, gross misrepresentation, or undue influence were not proved in court, hence, the same must fail. Fraud and other vices of consent must be established by full, clear, and convincing evidence.[24] Therefore, the finding of the trial court as to its existence or non-existence is final and cannot be reviewed save only when the finding is clearly shown to be erroneous. We perceive no error in the trial court's finding that the deed of assignment is not tainted with fraud. We reproduce said finding with approval:

(P)laintiff's evidence which consist solely of his oral testimony and the documentary evidence marked as exhibits, fail miserably to establish the gross misrepresentation, deception, fraud, grave abuse of confidence, mistake and undue influence allegedly employed on him to secure his consent to and signature on the assignment of hereditary rights.

In the first place, plaintiff had in his deposition indeed given inconsistent statements which cast serious doubts on his credibility. On direct examination, plaintiff declared that he signed the deed of assignment of hereditary rights in the house of the deceased (referring to the deceased Petra Francisco Vda. de Periquet) at Ilang-Ilang (Deposition, Exhibit A, pp. 13-14). Later plaintiff declared that he signed the document at New Manila, Quezon City (Id., p. 19). He declared that the assignment of hereditary rights was signed at midnight (Id., p. 13). Later on cross-examination, plaintiff declared that it was daytime when he signed (Id., p. 10). Also on direct examination, plaintiff declared that he did not read the assignment of hereditary rights before or at the time he signed (Id., p. 13). But on cross-examination he declared that he read a portion of the same (Id., pp. 68-69).

There is ample evidence that plaintiff signed the deed of assignment of hereditary rights freely and voluntarily and was fully aware of the contents, import and meaning of the document. Thus, to the question, 'what did Dr.

Fernando Periquet, Jr., tell you, if any, before signing this document?', plaintiff's answer was, 'He promised me to get the whole amount of P10,000.00 without any consent of his mother, personally, secret between us.' (Deposition, Exh. A, p. 18).

The third 'Whereas' clause of the deed of assignment of hereditary rights states:

'WHEREAS, the ASSIGNOR knows for a fact that the said deceased under the Last Will and Testament which she has caused to be prepared but which she was not able to sign, has given, devised and bequeathed to Dr. Fernando Periquet, Jr. her entire estate with the exception of the sum of FIFTY THOUSAND PESOS (P50,000.00) which she has bequeathed as follows:

To Felix Francisco

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P 10,000.00

To Dolores Periquet

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10,000.00

To Carmen Periquet

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10,000.00

To Belen Periquet de Jesus

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10,000.00

To Lydia Periquet

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5,000.00

To Jose Periquet, Jr.

-

5,000.00

-

P50,000.00

and the fact is undisputed that defendant Fernando Periquet, Jr., was since he was just a few days old adopted (though not judicially) by the deceased spouses Fernando Periquet and Petra Francisco, and lived with, served and cared for the said spouses for forty-six (46) years up to the time of their demise. Just prior to her death, Petra Francisco Vda. de Periquet caused the preparation of a will leaving her entire estate, with the exception of certain legacies, to defendant, but death supervened and the will was left unsigned.

It must also be noted, and this is also important, that on the same occasion that plaintiff signed the deed of assignment of hereditary rights, Exhibit B, Marta Francisco Reyes also signed a similar assignment of hereditary rights, Exhibit 2-Periquet.

The reason why plaintiff later changed his mind is also disclosed in his testimony on cross-examination. The reason is, 'Because when I was sent a telegram by my niece Gloria Zaragoza wherein it is stated that I have a share in the amount of P100,000.00, the telegram is in the possession of the defendant, he did not return it to me anymore after I have shown it to him.' (Deposition, Exh. A, p. 42). To a further question on cross-examination, 'My question is this Mr. Francisco, if the doctor complied with his promise here and gave you the P10,000.00 you will not complain anymore, is it not?', plaintiff's answer was, 'No, I will complain too.' To the follow-up question, 'Why?', the answer was, 'To complete the P100,000.00.' The succeeding question was, 'Who told you that you deserve P100,000.00?', the answer was, 'My niece who received P100,000.00 too, Gloria Zaragoza' (Deposition, Exh. A, p. 81).

Assuming that plaintiff did not know or was not aware of the contents and import of the assignment of hereditary rights, Exhibit B, when he signed the same on the night of August 3, 1966, it is impossible he did not come to know at least the import or the consequences of the same a few days after. The evidence is un rebutted that plaintiff was defendant's go between or intermediary in securing from Zacarias Zaragoza and Gloria Zaragoza-Nunez the latter's consent and signatures to the assignment of hereditary rights, Exhibits M and I. On this point defendant testified, 'I was with Felix Francisco. He was the one who was very instrumental in helping me out on looking where these cousins of mine live and at the same time to convince them to sign the assignment of hereditary rights in my favor for he has signed a similar document' (t.s.n. - Rivera, Oct. 23, 1973, pp. 31-32). Plaintiff in fact was with defendant in Iloilo when defendant secured the signatures of Zacarias Zaragoza and Gloria Zaragoza Nunez to the assignments of hereditary rights, Exhibits H and I, on August 11, 1966--eight (8) days after plaintiff signed the assignment of hereditary rights, Exh. B. Plaintiff was also with defendant when the latter approached Florentino Zaragoza but Florentino refused to sign (t.s.n.-Rivera, Oct. 23, 1973, pp. 30-31; 33). The point is, if plaintiff was in truth deceived by defendant, if it were that he had given his consent to and signature on the assignment of hereditary rights, Exhibit B, because of 'gross misrepresentation and deception and fraud', 'grave abuse of confidence', 'mistake and undue influence' employed on him by defendant, he would not have waited until May 16, 1970 -- almost four (4) years after he signed Exhibit B, to file this case. At the expense of being repetitious, it is impossible, after helping defendant get the signatures of Zacarias Zaragoza (the last of whom refused) to similar assignment of hereditary rights that plaintiff did not become aware at least from that time of the import and consequence of the assignment of hereditary rights he signed. After the widow Petra Francisco Vda. de Periquet died without having signed the will which she had asked defendant's lawyer to prepare, the deeds of assignment of hereditary rights which plaintiff, among others were asked to sign, was the last resorted (sic) to keep the estate of the deceased spouses in the hands of the defendant. Plaintiff obviously knew of the purpose of the several assignment of hereditary rights and was in fact instrumental in securing the consent and signatures of at least two of the heirs -- Zacarias and Gloria -- and failed in one--Florentino.

Equally as weighty, the testimonies of the witnesses to the assignment of hereditary rights, Exhibit 'E',-- Antonio Eugenio and Elias Fermin - are positive and convincing that plaintiff signed Exhibit B freely and voluntarily after reading the same and after being asked by defendant's counsel, Atty. Guytingco, whether he understands the contents of the same.[25] (Emphasis ours).

Finally, we agree with the petitioner that respondent court erred in disturbing the proceedings conducted in Special Proceedings Nos. Q-10004 and Q-11074, and the decrees and orders issued pursuant thereto. It cannot be denied that a compromise agreement was entered into by the parties in that case in order to end the suit already filed in court. The same was approved by the trial court in the order dated December 20, 1969.[26] Well-settled is the rule that a compromise agreement, once approved by the court, cannot and should not be disturbed except for vices of consent or forgery, it being the obvious purpose of such compromise agreement to settle, once and for all,

the claims of the parties, and bar all future disputes and controversies thereon.[27] A compromise agreement cannot bind persons who are not parties thereto.[28] Neither would a person not party to a compromise agreement be entitled to enforce the same.[29] Similarly, a person who is not a party to an agreement, as in this case, cannot seek the amendment or modification of the same. Neither can a court of law rule that the compromise agreement be amended and modified pursuant only to the wishes of a person not party to the said agreement.

All told, the assignment of hereditary rights executed by the late Felix R. Francisco in favor of petitioner Dr. Fernando Periquet, Jr. is hereby declared valid and effective.

ACCORDINGLY, the petition is hereby GRANTED and the decision of respondent court is hereby REVERSED and SET ASIDE. The decision of the trial court is AFFIRMED subject to the elimination of the award of P10,000.00 to Felix R. Francisco. Costs against private respondents.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quason, JJ., concur.

[1] Deposition of Felix Francisco, TSN, January 22, 1973, p. 29.

[2] TSN, March 14, 1975, p. 7.

[3] Exhibits "1" and "B"

[4] Exhibit "2"

[5] Exhibit "C"

[6] Exhibits "H" and "I"

[7] Exhibits "L" and "M"

[8] Exhibit "3"

[9] Rollo, p. 74; RTC Decision, pp. 22-23, penned by then Judge Eduardo Montenegro, now Court of Appeals Associate Justice.

[10] Rollo, p. 49; CA Decision, p. 7, penned by Justice Porfirio Sison and concurred in by then Associate Justices Abdulwahid Bidin [now Supreme Court Justice] and Marcelino Feloso.

[11] Rollo, p. 51

[12] Id., at pp. 29-30.

[13] Article 1338, CIVIL CODE OF THE PHILIPPINES.

[14] 1 Colin & Capitant 172 cited in Tolentino, CIVIL CODE OF THE PHILIPPINES, Vol. IV, 1986, p. 508.

[15] Munoz, p. 401, Id.

[16] See Note 1, supra., pp. 65-67.

[17] TSN, June 5, 1973, pp. 19-20; pp. 61-63.

[18] See Notes 1, 16, supra., pp. 41, 81.

[19] Id., at p. 117.

[20] Ching v. Court of Appeals, 181 SCRA 9, 17 [1990]; Tejido v. Zamacoma, 138 SCRA 78, 90 [1985]; Tijam v. Sibonghanoy, 23 SCRA 29, 35 [1968].

[21] Execution of assignment.

[22] Institution of the instant action.

[23] Commissioner of Internal Revenue v. Ayala Securities Corporation, 70 SCRA 204, 207 [1976].

[24] Centenera v. Palicio, 29 Phil. 470 [1915]; Butte v. Ong Sui Niu, (C.A.) 51 Off. Gaz. 5704 [1955].

[25] Record on Appeal, pp. 185-198.

[26] Id., at p. 173.

[27] Master Tours and Travel Corporation v. Court of Appeals, 219 SCRA 320, 325 [1993]; United Housing Corp. v. Dayrit, 181 SCRA 285 [1990]; Binamira v. Ogan--Occena, 148 SCRA 677 [1987]; Go v. Trocino, 114 SCRA 443 [1982]; Sabino v. Cuba, 18 SCRA 981 [1966]; Araneta v. Perez, 7 SCRA 923 [1963].

[28] Guerrero v. Court of Appeals, 29 SCRA 791 [1969].

[29] J. M. Tuason & Co., Inc. v. Cadampog, 7 SCRA 808 [1963].

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