

EUFEMIA PAJARILLO, CLAUDIO SUTERIO, JR., NYMIA SUTERIO AND MARILYN SUTERIO, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, THIRD CIVIL CASES DIVISION, SALUD SUTERIO AND PEDRO MA...*G.R. No. 72908. August 11, 1989*

Ponente: CRUZ, J.

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This is one of those distasteful litigations involving a controversy among close relatives over properties left by a common ascendant. The petitioners are the widow and children of the brother of the principal private respondent. She and her brother appear to be the only remaining issue of the mother who seems to have caused all the present confusion. The record does not show how close, if at all, the members of this small family were. What is certain is that there is no affection now among the protagonists in this case.

The mother was Juana Balane de Suterio, who had a brother named Felipe Balane and a sister named Perfecta Balane de Cordero. Perfecta died in 1945 leaving inter alia a tract of land consisting of about 28 hectares and covered by TCT No. 4671 in the Registry of Deeds of Quezon Province. On May 20, 1946, Juana and Felipe executed a public instrument entitled "Extrajudicial Settlement of the Estate of the Deceased Perfecta Balane de Cordero." [1] In it they disposed of the said property as follows:

EXTRA-JUDICIAL SETTLEMENT OF THE ESTATE OF**DECEASED PERFECTA BALANE DE CORDERO.**

This agreement made this 20th day of May, 1946, by and between Felipe Balane and Juana Balane de Suterio, both of age and residents of Macalelon, Tayabas, Philippines.

WITNESSETH:

That whereas, the said Felipe Balane and Juana Balane de Suterio are the only brother and sister respectively and forced heirs of Perfecta Balane de Cordero who dies intestate on January 21, 1945;

That whereas, the said Perfecta Balane de Cordero, deceased, left property described as follows:

TRANSFER CERTIFICATE OF TITLE NO. 4671.

Province of Tayabas.

A parcel of land (Lot No. 6-A, Plan Psu-12210), with all buildings and improvements except those herein expressly noted as belonging to other person, situated in the barrio of Luctol, Municipality of Macalelon. Bounded on the NE., by Lot No. 6-B; on the E., by property by Andrea Fernandez, the sapa Luctob and the sapa Patay; on the SE., by properties of Andrea Fernandez and Silvestra Mereis; on the SW., by properties of

Felix Rodriguez, Dionisio Fornea, Placido Abistado and Adriano Abistado and the mangrove of the government; and on Nw., by properties of Orilleneda, Mariano Glindro, Maxima Orilleneda, Placida Forcados and Basilio Rabe. xx xx xx xx xx xx xx containing an area of TWO HUNDRED EIGHTY-FIVE THOUSAND THREE HUNDRED FIFTY-THREE SQUARE METERS (285,353) more or less.

That whereas, we Felipe Balane and Juana Balane de Suterio, the only heirs of the property described above left by the deceased Perfecta Balane de Cordero, do hereby agree in carrying out the antemortem wish of our beloved deceased sister that in consideration of love and affection the property described above be donated to Salud Suterio de Matias.

That whereas, the estate left by the said Perfecta Balane de Castro, deceased, is not free from obligation or debt. It has an incumbrance of about ONE THOUSAND PESOS (P1,000.00) to the Philippine National Bank, Tayabas Branch.

That whereas, Salud Suterio de Matias, to whom this property is donated extra-judicially as agreed upon by both heirs, shall assume the said obligation to the Philippine National Bank, Tayabas Branch.

NOW, THEREFORE, we Felipe Balane and Juana Balane de Suterio have mutually agreed and covenanted to adjudicate, give, transfer and convey the property described above to Salud Suterio de Matias heirs, executors, administrators and assign.

And the donee does hereby accept this donation and does hereby express her gratitude for the kindness and liberality of the donor.

IN WITNESS WHEREOF, we have hereunto set our hands this 20th day of May, 1946.

(Sgd.) FELIPE BALANE

FELIPE BALANE

(Sgd.) JUANA BALANE DE SUTERIO

JUANA BALANE DE SUTERIO

(Acknowledgment)

On June 20, 1946, Salud Suterio executed the following public instrument,[2] with petitioner Eufemia Pajarillo was one of the witnesses:

KNOW ALL MEN BY THESE PRESENTS:

That on May 20, 1946, FELIPE BALANE and JUANA BALANE DE SUTERIO, the only heirs to the properties of the late PERFECTA BALANE DE CORDERO, executed a DEED OF DONATION in favor of the undersigned and the said donation was made in accordance to the antemortem wish of my late aunt, Perfecta Balane de Cordero, to the effect that the property described in the Deed of Donation, be given to me because of her love and affection for me, being her only niece.

That, I, SALUD SUTERIO DE MATIAS, the only DONEE, do hereby receive and accept this donation and further express my gratitude for the kindness and liberality of the DONORS, FELIPE BALANE and JUANA BALANE DE SUTERIO.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of June, 1946.

(Sgd.) SALUD SUTERIO DE MATIAS

SALUD SUTERIO DE MATIAS

Donee

Signed in the presence of:

(Sgd.) SOFRONIO BALANE

(Sgd.) EUFEMIA P. SUTERIO

(Acknowledgment)

These instruments were never registered nor was title transferred in Salud's name although she says she immediately took possession of the land. Meantime, intestate proceedings were instituted on the estate of Perfecta and the said land was among those included in the inventory of the properties belonging to the decedent.[3] Salud interposed no objection to its inclusion nor did she oppose its subsequent adjudication to her mother Juana in the project of partition. It is not clear if the land was ever registered in Juana's name. However, there is evidence that Juana confirmed the earlier donation of the land to Salud but requested that she be allowed to possess the same and enjoy its fruits until her death.[4] It has also not been controverted that Salud paid the P1,000.00 loan for which the land was mortgaged.

Salud says that sometime in 1951, acceding to this request, she transferred the possession of the land to her mother, who was then staying with Claudio and his family. During the period they were occupying the land, Claudio paid the realty taxes thereon.[5] On May 25, 1956, Juana executed a deed of absolute sale conveying the land to Claudio for the declared consideration of P12,000.00.[6] Two years later, on August 27, 1958, Claudio had the land registered in his name and was issued TCT No. 32050 in the land records of Quezon Province.[7]

Claudio died in 1961 and his mother in 1963. On June 30, 1965, the private respondents filed a complaint for the reconveyance of the property on the ground that the deed of sale in favor of Claudio was fictitious and its registration in his name was null and void.[8]

Salud (joined by her husband) alleged that she was unaware until later of the supposed sale of the land to Claudio. She faulted it as having been procured through fraud and improper influence on her sick and aged mother. She claimed that no compensation was actually paid by Claudio and that the transaction was deliberately concealed from her by her brother and the defendants.[9] For their part, the defendants assailed the donation to Salud as legally inefficacious and defective and contended that her complaint was barred by prescription, estoppel and res judicata. They also filed a counterclaim questioning the sale to Salud by her mother of another tract of land, in which they said they were entitled to share as Juana's heirs.[10]

On April 17, 1979, Judge Juan M. Montecillo of the Court of First Instance of Quezon rendered judgment upholding the donation to the plaintiff and annulling the deed of sale and the registration of the land in favor of Claudio Suterio, Sr. The defendants were required to reconvey the land to Salud Suterio even as their counterclaim was dismissed for lack of evidence.[11]

On appeal, the decision was affirmed in toto.[12] The respondent court is now sought to be reversed in this petition for certiorari under Rule 45 of the Rules of Court.

We hold at the outset that, contrary to the ruling in the challenged decision, the petitioners have the legal personality to challenge the validity of the donation on which Salud bases her claim to the property under litigation. As defendants in the complaint for reconveyance, they had every right to resist the plaintiffs' allegation that she was the owner of the subject property by virtue of the claimed donation. Recognition of that donation would topple the props of their own contention that Juana could dispose of the property as its owner when she

sold it to Claudio Suterio in 1956.

The petitioners also assail the intrinsic validity of the extrajudicial settlement and submit that it is not really a donation as conceptually understood in civil law. Their argument is that the real donor of the property was Perfecta, the deceased sister, who, however, could no longer bestow the intended gift. For their part, Felipe and Juana could not have made the donation either because they were not moved by the same sentiments Perfecta had for her niece Salud. That feeling would have provided the required consideration if Perfecta herself had made the donation, but not the other two.

This appears to be too much nitpicking, if not sophistry. Felipe and Juana had declared themselves the heirs of Perfecta and the owners of the property in question. As such, they were free to give the land to whomever they pleased and for whatever reason they saw fit. Hence, if they chose to respect Perfecta's wishes and carry out her intentions by donating the land to Salud, there was no legal impediment to their doing so. In fact, that was not only the legal but also the moral thing to do.

There is no question that Felipe and Juana could have simply disregarded their sister's sentiments and decided not to donate the property to Salud, keeping the same for themselves. The fact that they did not do this speaks well indeed of their integrity and their loyalty as well to their deceased sister. The extrajudicial settlement also reflects their own affection for Salud which constituted the valid consideration for their own act of liberality. Notably, in her acceptance of the donation, Salud referred to "the donors Felipe Balane and Juana Balane de Suterio," and not Perfecta.

It is also pointed out that the donation is defective in form because of non-compliance with the requirements of the law regarding its acceptance. As it was executed in 1946, the applicable rule is Article 633 of the old Civil Code reading as follows:

Art. 633. In order that a donation of real property be valid it must be made by public instrument in which the property donated must be specifically described and the amount of the charges to be assumed by the donee expressed.

The acceptance may be made in the deed of gift or in a separate public writing; but it shall produce no effect if not made during the lifetime of the donor.

If the acceptance is made by separate public instrument, authentic notice thereof shall be given the donor, and this proceeding shall be noted in both instruments.

There is no question that the donation was accepted in a separate public instrument and that it was duly communicated to the donors. Even the petitioners cannot deny this. But what they do contend is that such acceptance was not "noted in both instruments," meaning the extrajudicial partition itself and the instrument of acceptance, as required by the Civil Code.

That is perfectly true. There is nothing in either of the two instruments showing that "authentic notice" of the acceptance was made by Salud to Juana and Felipe. And while the first instrument contains the statement that "the donee does hereby accept this donation and does hereby express her gratitude for the kindness and liberality of the donor," the only signatories thereof were Felipe Balane and Juana Balane de Suterio. That was in fact the reason for the separate instrument of acceptance signed by Salud a month later.

A strict interpretation of Article 633 can lead to no other conclusion than the annulment of the donation for being defective in form as urged by the petitioners. This would be in keeping with the unmistakable language of the above-quoted provision. However, we find that under the circumstances of the present case, a literal adherence to the requirement of the law might result not in justice to the parties but conversely a distortion of their intentions. It

is also a policy of the Court to avoid such an interpretation.

The purpose of the formal requirement is to insure that the acceptance of the donation is duly communicated to the donor. In the case at bar, it is not even suggested that Juana was unaware of the acceptance for she in fact confirmed it later and requested that the donated land be not registered during her lifetime by Salud.[13] Given this significant evidence, the Court cannot in conscience declare the donation ineffective because there is no notation in the extrajudicial settlement of the donee's acceptance. That would be placing too much stress on mere form over substance. It would also disregard the clear reality of the acceptance of the donation as manifested in the separate instrument dated June 20, 1946, and as later acknowledged by Juana.

The cases cited by the parties in their respective memoranda are not really in point. In *Legasto v. Verzosa*,[14] there was no evidence whatsoever that the claimed donations had been accepted, as stressed by Justice Villa-Real. The same observation is made of *Santos v. Robledo*,[15] where Justice Torres noted that the acceptance of the donation did not appear in the deed of donation or in any other instrument.

The petitioners would also fault the private respondents for laches and argue that Salud's inaction in protection of her rights should bar her from asserting them at this late hour. Specifically, it is pointed out that she failed to register the deed of donation and its acceptance in 1946; did not oppose the inclusion of the subject land in the inventory of Perfecta's properties submitted in the intestate proceedings in 1946; did not object to the adjudication of the land to Juana in the project of partition in 1951; did not protest the sale of the land to Claudio Suterio in 1956; and did not question its registration in his name in 1958. It is contended that all these acts constitute laches, which has been described by this Court thus:

An estoppel by laches arises from the 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.[16]

The problem with the petitioners' theory is that it would regard Juana and Salud as strangers when they are in fact mother and daughter. One may expect a person to be vigilant of his rights when dealing with an acquaintance or associate, or even with a friend, but not when the other person is a close relative, as in the case at bar. To begin with, the land came from Juana herself. Secondly, she requested her daughter not to register the land as long as she was still alive so she could enjoy its fruits until her death. To Salud, it was not difficult to comply with this request, coming as it did from her own mother. There was no reason to disobey her. She did not have to protect herself against her own mother. Indeed, what would have been unseemly was her registering the land against her mother's request as if she had no confidence in her. Salud did no less than what any dutiful daughter would have done under the circumstances.

If Salud did not protest the inclusion of the land in the inventory of Perfecta's properties and its subsequent adjudication to Juana in the intestate proceedings, it was because she did not feel threatened by these acts. She did not distrust her mother. Moreover, Juana had herself acknowledged the donation when she was asked in whose name the property would be registered following the intestate proceedings. Salud felt safe because she had the extrajudicial settlement to rely on to prove that her mother and her uncle had donated the subject land to her.

There is nothing in this instrument to suggest that the donation was to take effect upon the death of the donors as to make it a donation mortis causa, as urged by the petitioners. The donation became effective upon acceptance by Salud except that, in obedience to her mother's request, she chose not to register the land in the meantime and to allow her mother to enjoy its fruits. What was deferred was not its effectivity but only its enjoyment by Salud. Registration was not necessary to make the donation a binding commitment insofar as the donors and the donee were concerned.[17]

As for her inaction against the deed of sale in favor of her brother Claudio, it should be noted in the first place that

she was not aware of it when it was executed in 1956. Her mother, who was already 76 years old at the time, never informed her about it, nor did her brother or any of the defendants, for reasons of their own. It was only later, when the sale was registered in 1958 and a new title to the land was issued to Claudio, that she started asking questions. Even then, being a sister to Claudio, she did not immediately take legal steps.

It is natural, even among non-relatives, to seek a non-judicial settlement through extra-legal measures before going to court. It is more so in the case of relatives, who should avoid as much as possible the asperity and bitterness of litigation. That is what Salud did when she repeatedly asked the petitioners for the return of the property albeit to no avail. It was only when it became clear that amicable persuasion was not possible that she decided to sue the wife and children of her departed brother.

The petitioners stress that it took Salud all of seven years from the registration of the land in Claudio's name before she filed the complaint for reconveyance against them. That is true. But if one remembers that her brother died only in 1961 and her own mother only in 1963, at the age of 83, it will be easy to understand the reason for the delay, which would otherwise have been unjustified. Suits among brothers and sisters are especially painful to their parents. Salud must have thought many times about filing her complaint against her brother Claudio while her old mother was still alive. In fact, Salud hesitated still even after her mother's death and took two more years before she finally filed her complaint against Claudio's wife and children.

It is clear that Juana Balane de Suterio had no right to sell the subject land to Claudio because she was no longer its owner, having previously donated it to her daughter Salud. Juana herself was holding the land merely as a trustee of Salud, who had transferred possession to her mother at the old woman's request. The deed of sale was itself vitiated by bad faith as Claudio is presumed to have known of the previous donation to his sister Salud, whose acceptance of the donation was formally witnessed by his own wife, the herein principal petitioner.[18] When Claudio registered the land in his name knowing there was a flaw in his title, an implied trust was created in favor of Salud as the real owner of the property in accordance with Article 1456 of the Civil Code, reading as follows:

If the property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

As trustor, Salud had every right to sue for the recovery of the land in the action for reconveyance against Claudio's heirs. As we said in *Vda. de Jacinto, et al. v. Vda. de Jacinto, et al.*:[19]

Public policy demands that a person guilty of fraud or at least, of breach of trust, should not be allowed to use a Torrens title as a shield against the consequences of his own wrongdoing.

The petitioners do not insist on prescription as a bar to the action for reconveyance, and understandably so. The legal principle is that if the registration of the land is fraudulent and the person in whose name the land is registered thus holds it as a mere trustee, the real owner is entitled to file an action for reconveyance of the property within a period of ten years. As we have held in many cases:

Where the action is one for reconveyance based on constructive trust, a ten-year period is allowed.[20]

An action for reconveyance of realty, based upon a constructive or implied trust resulting from fraud, may be barred by prescription. The prescriptive period is reckoned from the issuance of the title which operates as a constructive notice.[21]

While actions to enforce a constructive trust prescribe in 10 years from registration of the property, private respondents' right commenced from actual discovery of petitioner's act of defraudation.[22]

The record shows that while the land was registered in the name of Claudio Suterio, Sr. in 1958, the complaint for

reconveyance was filed by the petitioners in 1965, or still within the ten-year prescriptive period.

The last issue raised by the petitioners, viz., the validity of the deed of sale executed by Juana Balane de Suterio on January 29, 1950, in favor of Salud Suterio,[23] need not detain us too long. The trial court sustained the contract for lack of sufficient evidence to invalidate it and was upheld by the respondent court. We see no reason to disturb their factual finding, absent a showing that it was reached arbitrarily. Interestingly, it occurred to the petitioners to question the transaction only when they were sued by the private respondents, after fifteen years from the date of the sale. This is an even longer period than the nine years during which the petitioners say Salud Suterio was sleeping on her rights following the sale of her land to Claudio Suterio.

WHEREFORE, the petition is DENIED, with costs against the petitioners. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Exhibit "A."

[2] Exhibit "B."

[3] Exhibit "12-A."

[4] Exhibit "D."

[5] Exhibits "4" to "4-G."

[6] Exhibit "1."

[7] Exhibit "2."

[8] Record on Appeal, p. 1.

[9] Ibid., pp. 4-5.

[10] Id., p. 27.

[11] id., p. 69.

[12] Rollo, p. 46. Penned by Ejercito, J., with Coquia, Zosa and Bartolome, JJ., concurring.

[13] TSN, January 15, 1970, p. 54.

[14] 54 Phil 766.

[15] 28 Phil. 245.

[16] Tijam, et al. v. Sibonghanoy, 23 SCRA 29.

[17] Sapto, et al. v. Fabiana, 103 Phil. 683.

[18] Exhibit "B."

[19] 115 Phil. 263.

[20] Quiñiano v. Court of Appeals, 39 SCRA 221.

[21] Sinaon v. Soroñgon, 136 SCRA 407.

[22] Adille v. Court of Appeals, 157 SCRA 455.

[23] Exhibit “Q.”

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