

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. INTERMEDIATE APPELLATE COURT, SIMPLICIO BERDON, GAUDIOSA BERDON AND LUIS BERDON, RESPONDENTS.

G.R. No. 74225. April 17, 1989

Ponente: CORTES, J.

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CORTES, J.:

The Republic assails as erroneous the decision of the Intermediate Appellate Court affirming that of the Court of First Instance which dismissed the petition for forfeiture of unexplained wealth under Republic Act No. 1379 filed against private respondents herein.

The dismissed petition charged Simplicio Berdon, an Assistant Staff Civil Engineer assigned to Regional Office No. VII of the Bureau of Public Highways in Cebu City, with having acquired unexplained wealth in violation of Republic Act No. 1379. It alleged that during the period from 1963 to 1969 he and his wife Gaudiosa Mangubat Berdon purchased parcels of land and constructed a house, the purchase prices and costs of which were not commensurate to their incomes, savings or declared assets. Pleaded as defendants in the petition were Berdon, his wife, and Luis Berdon, his father. Petitioner Republic of the Philippines, which valued the unexplained wealth at P124,495.82, thus sought the forfeiture of the properties and the issuance of a writ of attachment. Upon orders of the trial court, the properties enumerated in the petition were attached.

During the course of the trial, the following evidence was adduced by the parties:

* * *

The evidence for the petitioner as testified to by Joselito Magno and Atty. David Macayayong may be summarized as follows:

That on the basis of a letter complaint sent to the Office of the President by a certain George Valde against Simplicio Berdon, the Complaint and Investigation Office, Malacanang, Manila, sent Joselito Magno and Atty. David Macayayong to conduct an actual field investigation on Mr. Simplicio Berdon. Both investigators went to Cebu City, Danao City and the Northern Towns of Bogu and Borbon, Cebu and secured pertinent documents relative to the case such as the service record of the respondent Simplicio Berdon (Exh. 'B'), copies of sworn statement of financial condition, assets, income and liabilities of respondent-spouses Berdon, Exhibit 'C' for the year 1962; Exhibit 'D' for 1963; Exhibit 'E' for 1965; Exhibit 'F' for 1967 and Exhibit 'G' for 1969. Copies of documents regarding the acquisition of respondent Simplicio Berdon were also obtained, to wit: Exhibit 'H' which is a Deed of Absolute Sale of a parcel of land in favor of respondents-spouses Berdon for a consideration of P3,700.00 executed on July 19, 1967; Exh. 'I' is a contract to sell by installments of a parcel of land of the Singson Village Subdivision, Cebu City, in favor of respondent Simplicio Berdon for a monthly installment of P107.00, more or less, and with a total consideration of P9,000.00; Exh. 'J' is a Deed of Absolute Sale of a parcel of agricultural land dated September 6, 1967 also in favor of respondent Simplicio Berdon for a consideration of P3,000.00; Exh. 'K' is another Deed of Absolute Sale of a parcel of land situated in Cebu City, containing an area of 623 square meters in favor of respondent Simplicio Berdon for the sum of

P15,825.00 executed on November 9, 1967; Exh. 'L' is a Deed of Sale With Right to Repurchase within a period of 5 years of a parcel of agricultural land situated at Managasa, Borbon, Cebu executed by Fidel Sepulveda in favor of respondent Simplicio Berdon on November 27, 1967 for a consideration of P5,000.00; Exh. 'M' is another Deed of Sale with Right to Repurchase within the period of three (3) years of a parcel of agricultural land also situated at Managasa, Borbon, Cebu, executed by Felicidad S. Quiachon on December 7, 1967 in favor of respondent Simplicio Berdon for a consideration of P3,000.00; Exh. 'N-1' is a Deed of Absolute Sale of a parcel of agricultural land situated in Managasa, Borbon, Cebu, executed by Elias M. Dosdos on December 17, 1967 in favor of respondent Simplicio Berdon for the sum of P25,000.00; Exh. 'Y' is a Deed of Sale with Right to Repurchase executed by Felicidad S. Quiachon on July 4, 1968 in favor of respondent Simplicio Berdon for a sum of P5,000.00; Exh. 'P' is another Deed of Sale with Right to Repurchase executed by Fidel Sepulveda on November 8, 1968 in favor of Simplicio Berdon for the sum of P10,000.00 and Exh. 'O' refer to a Deed of Absolute Sale dated November 18, 1969 of a parcel of land situated at Bogo, Cebu in favor of respondent Simplicio Berdon; Exh. 'S' refer to a Deed of Extrajudicial partition of a parcel of land acquired by respondent Luis Berdon for a consideration of P1,000.00. This parcel of land is included since the respondent Luis Berdon had no known source of income and this land must have been purchased by the respondent Simplicio Berdon but under the name of respondent Berdon; and Exh. 'R' is a Declaration of Real Property, a residential house of strong materials owned by respondent Simplicio Berdon with an assessed value of P34,480.00. An analysis and evaluation of respondent Simplicio Berdon's financial condition, income, assets and liabilities reflected in Exhs. 'C', 'D', 'E', 'F', and 'G' from 1962 to 1969 show an unexplained total income of P105,495.92. Not included in the computation is the sum of P1,000.00 which was the consideration of the parcel of land purchased in the name of respondent Luis Berdon, so that the total unexplained income of respondent Simplicio Berdon for the years 1962 to 1969 is P109,495.92. The total amounts paid by respondents spouses in the several real properties purchased and/or constructed by them amounts to P101,305.00 as shown in Exhs. 'H', 'I', 'J', 'K', 'L', 'M', 'N-1', 'O', and 'P', 'Q', and 'R' plus the aforementioned sum of P1,000.00 purchased for a parcel of land in the name of Luis Berdon (Exhs. 'S'). Since the money used to purchase those real properties came from an unexplained income these properties should be forfeited in favor of the state.

The evidence for the respondents as testified to by respondents spouses Simplicio Berdon and Gaudiosa Mangubat Berdon is as follows:

Respondent Mrs. Berdon is employed as a pharmacist at the Danao General Hospital (Exh. '4'). Her parents who have several landholdings in the municipality of Borbon, Cebu (Exh. '9') extended to respondents spouses a loan in the sum of P5,000.00 (Exh. '10-A') to buy the house and lot in Danao City. Aside from this amount respondents spouses were given by Mrs. Berdon's mother the sum of P3,000.00 to repair said house which was already very dilapidated. Respondents deny having owned a moviehouse in Bogo, Cebu. Moreover, Mrs. Romualda Mangubat, respondent Mrs. Berdon's mother, owns the moviehouse.

Respondent Simplicio Berdon testified that he started in the government service as construction foreman in the year 1955. Since then he has been in the government service and rose from the ranks when he was promoted to the position of Assistant Staff Civil Engineer in the Ministry of Public Highways, Region 7. Aside from respondents spouses' income as government employees they have also other income, and for which they have paid taxes thereon under Presidential Decree 370 (Exhs. '12' and '12-A') and Presidential Decree 631 (Exhs. '13' & '13-A'). In respondents-spouses' statement of assets and liabilities as of December 31, 1967, the P20,000.00 disbursed as insurance premiums was erroneous. This amount represents the face value of the insurance policy of respondent Simplicio Berdon (Exh. '15'). Insurance premiums should have been only P427.66 semi-annually (Exh. '15-A'). The respondent Simplicio Berdon also denied petitioner's allegation that the purchase price of the parcel of land he bought from a certain Elias Dosdos was P45,000.00. The truth is that he paid only P25,000.00 as shown in Exhs. '16' & '16-A'. The residential house of respondents spouses situated in Lahug, Cebu City, actually costs about P25,000.00 as shown in the building permit of said house (Exhs. '17' and '17-A') and respondents spouses were able to obtain a real estate loan of P14,000.00 from the

GSIS to finance the construction of said building (Exhs. '18' & '19'). Sometime on November 7, 1967, the respondent Simplicio Berdon obtained a personal loan from former Congressman Ramon Durano in the sum of P100,000.00 under a Memorandum of Agreement (Exhs. '20') which amount he used to purchase the several parcels of agricultural lands in 1967 and 1968. The marriage contract of the respondents spouses marked Exh. '21' showed that Congressman and Mrs. Durano stood as sponsors of the wedding of respondents spouses. Defendants spouses had also obtained a loan from the Development Bank of the Philippines (Exh. '22') which they used to purchase the lot in Bogo, Cebu containing an area of 359 sq. m. (Exh. '23') mentioned in petitioner's Exh. 'O'.

Respondent Luis Berdon was not presented. However, Exhibit '11' which is a medical certificate issued by the municipal health officer of Borbon, Cebu was presented to show that the general physical condition of the respondent Luis Berdon cannot sustain long distance land travel. Exhs. '5' and '9' were also presented showing that the respondent Luis Berdon is a retired school teacher and a declared owner of several parcels of land situated in Borbon, Cebu, respectively. (pp. 67-76, Record on Appeal).

[IAC Decision, pp. 3-7; Rollo, pp. 34-38.]

On the basis of the aforesaid evidence, the trial court dismissed the petition, holding that respondents have no unexplained wealth.

The Republic appealed the trial court's decision to the Intermediate Appellate Court. The appellate court, finding no reversible error in the decision appealed from, affirmed said decision. Said court found that, on the basis of the evidence presented, "the assets acquired by the respondent-spouses in excess of their income and receipts from their employment in the Government were satisfactorily explained, thus justifying the conclusion of the trial court that respondent-spouses do not have unexplained wealth subject to forfeiture under Republic Act 1379." [IAC Decision, p. 7; Rollo, p. 38.]

Hence, the instant recourse by the Republic to this Court through a petition to review the appellate court's decision.

Republic Act No. 1379, entitled "An Act Declaring Forfeiture in Favor of the State of Any Property Found to Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Procedure Thereof," provides inter alia:

Sec. 2. Filing of petition. - Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired. . . .

* * *

Sec. 6. Judgment. - If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: Provided, That no judgment shall be released within six months before any general election or within three months before any special election. The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

* * *

Clear from these provisions is that the law creates presumption against the public officer or employee who acquires property grossly disproportionate to his income, i.e. that the property was unlawfully acquired. However, this presumption is juris tantum. It may be rebutted by the public officer or employee by showing to the

satisfaction of the court that his acquisition of the property was lawful.

In the instant case, both the trial and the appellate courts had found satisfactory the private respondents' explanation of their acquisition of the properties and consequently held that they do not have any unexplained wealth as contemplated by the law.

The Solicitor General contends that the findings of the appellate court are not supported by the evidence and, hence, should not bind the Court. The Court finds the contention unmeritorious, as the evidence indeed obviates a finding of unexplained wealth.

The Court has carefully gone over the evidence presented by private respondents, and like the trial court and the intermediate Appellate Court, finds the acquisition of the subject properties satisfactorily explained.

While respondent spouses had acquired properties and constructed a house the costs of which were disproportionate to their combined incomes from their employment in the government, it had been proved that such were financed through a donation and loans, to wit:

(1) a P3,000.00 donation and a P5,000.00 loan from the parents of Mrs. Berdon, who owned several parcels of land and a moviehouse [TSN, October 3, 1979, pp. 11-17; Exh. "9"];

(2) a P14,000.00 loan from the Government Service Insurance System (Exh. "18" and "19");

(3) a P6,000.00 loan from the Development Bank of the Philippines [TSN, November 21, 1979, pp. 21-22; Exh. "22" and "23"]; and,

(4) a P1,000,000.00 loan from Congressman Ramon Durano, a wedding sponsor of respondent spouses [TSN, November 20, 1979, pp. 18-19; Exh. "21"], for the purchase of agricultural land to be planted with sugarcane (although only a total amount of approximately P60,000.00 was actually released). [TSN, November 21, 1979, pp. 17-19; Exh. "20"].

The Solicitor General also makes much of the fact that the statements of assets and liabilities filed by private Simplicio Berdon covering the years material to the case did not accurately reflect the donation and the loans granted to private respondent spouses and that Simplicio's testimony in effect contradicts the entries in said statements. It must be emphasized, however, that in determining whether or not there is unexplained wealth within the purview of R.A. No. 1379 the courts are not bound by the statements of assets and liabilities filed by the respondent.* On the contrary, this statute affords the respondent every opportunity to explain, to the satisfaction of the court, how he had acquired the property in question [Sec. 5, R.A. No. 1379.]

In sum, the presumption under Sec. 2 of R.A. No. 1379 that the subject properties were unlawfully acquired had been successfully rebutted by private respondents through competent evidence. Hence, the Intermediate Appellate Court did not err in affirming the trial court's decision dismissing the Republic's petition.

WHEREFORE, no reversible error having been committed by the Intermediate Appellate Court, the instant petition is hereby DENIED and its decision dated March 31, 1986 is AFFIRMED.

SO ORDERED.

Fernan, C.J., and Feliciano, J., concur.

Gutierrez, Jr., no part.

Bidin, JJ., no part, participated in the appealed decision of the Court of Appeals.

* The accuracy of entries in statements of assets and liabilities becomes material in criminal or administrative

proceedings for violation of Sec. 7 of R.A. No. 3019, as amended (the "Anti-Graft and Corrupt Practices Act"), which requires every public officer to file a "true, detailed and" sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of, income taxes paid for the next preceeding calendar . year." [See Sec. 9(b) of R.A., No. 3019, as amended.]

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