

SALOME ROSENDO RIVAS, PETITIONER, VS. HON. COURT OF APPEALS, PELAGIO PALING, MILAGROS PALING, EDMUND PALING AND ABELARDO PALING, RESPONDENTS.

G.R. No. 94630, June 14, 1993

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This petition for certiorari seeks the review of the decision of the Court of Appeals in CA-G.R. CV No. 20779, affirming the decision of the Regional Trial Court of Candon, Ilocos Sur in Civil Case No. 417-C for Nullification/Cancellation of Documents, Usufructuary Rights and Damages.

Remedios Rivas Paling is a legitimate child of Mariano Rivas by a previous marriage with Casimira Makil. Mariano Rivas thereafter married Salome Rosendo on October 6, 1943 (Annex "A" of the Memorandum for the Defendant, p. 117, Records). Four parcels of land covered by Tax Declaration Nos. 1960-C, 1883-C, 1884-C, and 1541-C were acquired during their marriage with exclusive capital of her husband. Mariano Rivas died intestate on October 9, 1961, leaving two compulsory heirs, namely, his daughter, Remedios Rivas Paling, and his second wife, Salome Rosendo Rivas. As she had no children with Mariano Rivas, Salome Rivas executed on October 3, 1962 a Waiver of Rights to Inherit with Reservation of Usufruct (Exhibit "A") wherein she waived her right to inherit any of the properties left by her husband but reserved for herself the usufruct of his four (4) parcels of land. It expressly provided that her usufruct "shall not be transferable and will exist only during my lifetime" (p. 49, Rollo.)

Remedios Rivas Paling died intestate leaving as compulsory heirs her surviving spouse, Pelagio Paling, and their four children: Milagros, Edmund, Abelardo and Pelagio Jr. On May 16, 1983, Salome Rivas sold to the spouses Delfin and Herminia Iblogan with a right to repurchase the land covered by T.D. 1960-C (Records, p. 221).

On August 5, 1985, the heirs of Remedios filed a complaint against Salome Rivas and the Spouses Delfin and Herminia Iblogan for Nullification/Cancellation of the Sale with Right to Repurchase and of the Usufruct of Salome Rivas plus damages. It was docketed as Civil Case No. 417-C in the RTC of Candon, Ilocos Sur.

In her Answer dated November 19, 1985, defendant Salome Rivas alleged that she is the lawful and exclusive owner of the parcels of land and that she never intended to waive her right to inherit from her husband, Mariano Rivas. She denied under oath the genuineness and due execution of the "Waiver of Rights to Inherit with Reservation of Usufruct," contending that her thumbmark thereon was procured through fraud, mistake, force, misrepresentation, and undue influence.

The spouses Delfin Iblogan and Herminia Iblogan did not answer the complaint.

After the trial, the court a quo on November 10, 1988 handed down a 27-page decision for the plaintiffs, the dispositive portion of which reads:

"WHEREFORE, judgment is rendered:

"1. declaring Exhibit 'A' valid and binding as between Salome Rivas and Remedios Rivas Paling, their heirs, assigns and successors-in-interest;

"2. declaring Remedios Rivas Paling including her heirs, assigns and successors-in-interest as the true and lawful owner of the parcels of land in controversy;

"3. declaring Exhibit 'B' to be null and void;

"4. ordering spouses, Delfin and Herminia Iblogan to immediately vacate the premises of the land described in Exhibit 'B'; and,

"5. denying the extinguishment of the usufructuary rights of Salome Rivas over the litigated lands, which right shall only be terminated upon her death.

"Without pronouncement as to costs." (Records pp. 237-238)

Salome appealed to the Court of Appeals which affirmed the trial Court's judgment.

In this petition for review, Salome alleges that the Court of Appeals erred:

1. in holding that the issue of approval of document marked Exhibit "A" was never raised in the answer to the complaint nor litigated in the court below, and such failure of petitioner-appellant to invoke it as a defense in answer to the complaint constituted a waiver thereof;

2. in not finding that the document Exhibit "A" (Waiver of Right to Inherit with Reservation of Usufructuary) was null and void ab initio for having been executed contrary to law;

3. in holding that the execution of the document marked as Exh. "A" was not vitiated by fraud, force, misrepresentation and undue influence;

4. in finding that the properties in question are the exclusive and capital properties of Maria-no Rivas;

5. in finding that petitioner-appellant never considered herself as belonging to the cultural minorities when she executed the Deed of Sale With Right to Repurchase, marked as Exhibit "B", because if she was truly a member of the cultural minorities, why did she not submit for approval by the Office of the Muslim Affairs and Cultural Minorities the said Exhibit "B." Her failure to do so reinforced and strengthened appellees' submission that petitioner-appellant does not belong to the cultural minorities in contemplation of law; and

6. in holding that petitioner-appellant was guilty of laches and prescription for her failure to annul the document marked Exhibit "A" for more than twenty (20) years since its execution in 1962.

In her first, second and fifth assignments of error, petitioner would want this Court to declare the "Waiver of Rights to Inherit with Reservation of Usu-fruct" (Exhibit "A"), null and void for want of approval by competent authorities in accordance with Section 120 of Commonwealth Act No. 141, which provides that:

"Sec. 120. Conveyances and encumbrance made by persons belonging to the so called "non-Christian Tribes," when proper, shall be valid if the person making the conveyance or encumbrance is able to read and can understand the language in which the instrument of conveyance or encumbrances is written. Conveyances and encumbrances made by illiterate non-Christians shall not be valid unless duly approved by the Commissioner of Mindanao and Sulu." (now Office of Muslim Affairs and Cultural Minorities). (as amended by RA 3872, Sec. 3, approved on June 18, 1964."

Petitioner faults the Court of Appeals in holding that the above legal provision was never raised in the Answer to the Complaint, hence, it was waived. On the other hand, the petitioner alleged that that defense was included in the issue of "illegality of the document" raised in her Answer (Rollo p. 3).

Even if it is true that petitioner raised the issue of illegality of Exhibit "A" when she alleged in her answer:

"D.) That defendant Salome Rosendo Rivas specifically denied under oath the voluntariness and due execution of the document marked as Annex 'A' in the complaint, because, aside from its illegality, her signature therein were (sic) secured through fraud, misrepresentation, force and undue influence, and defendant Salome Rosendo Rivas does not know how to read and write;" (Records p. 18 underscoring sup-plied).

she however, failed to prove convincingly by preponder-ance of evidence the truth of those allegations. The new issue raised by her that the document was executed contrary to the provision of Commonwealth Act No. 141, was not convincingly proven. The trial court and the Court of Appeals were not convinced that she is a member of a non-Christian tribe or of a cultural minority group who may not transfer or dispose of real property without the approval of competent authority. The certification (marked as Exhibit "1", p. 71, Records) that "Salome Rosendo Rivas is a member of the national cultural minorities..." which was offered in evidence has no probative value. It was not identified by the person who issued it, or his representative, nor by Salome Rivas. It is a mere scrap of paper. Petitioner's argument that it is a public document, hence, it need not be identified by the government official or authori-ty who issued it, is unavailing for even if it is con-sidered a public document, it is "not conclusive evi-dence with respect to the truthfulness of the statements made therein by the interested parties" (Dupilas vs. Cabacuñgan, 36 Phil. 254).

On the contrary, after a careful consideration of all the evidence presented - testimonial and documen-tary - the trial court and Court of Appeals found that Salome Rosendo Rivas did not really belong to a cultural minority group within the contemplation of Sec. 120 of CA 141. That factual finding is binding on us (Co vs. Intermediate Appellate Court, 162 SCRA 390).

The appellate court further opined that private respondents' evidence regarding the validity, authentic-ity, and due execution of Exhibit "A" are far more weighty than the evidence of the petitioner. Since the Supreme Court decides appeals which only involve questions of law (PNB vs. CA, 159 SCRA 433), it will not analyze and re-weigh the evidence of the parties all over again.

WHEREFORE, the petition for review is DENIED for lack of merit and the decision of the Court of Appeals is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Cruz, (Chairman), Bellosillo, and Quason, JJ., concur.

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