

**IN THE MATTER OF THE PETITION TO APPROVE THE WILL OF
MELECIO LABRADOR, SAGRADO LABRADOR (DECEASED)
SUBSTITUTED BY ROSITA LABRADOR, ENRICA LABRADOR, AND
CRISTOBAL LABRADOR, PETIT...**

G.R. NOs. 83843-44. April 05, 1990

Ponente: PARAS, J.

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PARAS, J.:

The sole issue in this case is whether or not the alleged holographic will of one Melecio Labrador is dated, as provided for in Article 810[2] of the New Civil Code.

The antecedent and relevant facts are as follows: On June 10, 1972, Melecio Labrador died in the Municipality of Iba, province of Zambales, where he was residing, leaving behind a parcel of land designated as Lot No. 1916 under Original Certificate of Title No. P-1652, and the following heirs, namely: Sagrado, Enrica, Cristobal, Jesus, Gaudencio, Josefina, Juliana, Hilaria and Jovita, all surnamed Labrador, and a holographic will.

On July 28, 1975, Sagrado Labrador (now deceased but substituted by his heirs), Enrica Labrador and Cristobal Labrador, filed in the court a quo a petition for the probate docketed as Special Proceeding No. 922-I of the alleged holographic will of the late Melecio Labrador.

Subsequently, on September 30, 1975, Jesus Labrador (now deceased but substituted by his heirs), and Gaudencio Labrador filed an opposition to the petition on the ground that the will has been extinguished or revoked by implication of law, alleging therein that on September 30, 1971, that is, before Melecio's death, for the consideration of Six Thousand (P6,000) Pesos, testator Melecio executed a Deed of Absolute Sale, selling, transferring and conveying in favor of oppositors Jesus and Gaudencio Lot No. 1916 and that as a matter of fact, O.C.T. No. P-1652 had been cancelled by T.C.T. No. T-21178. Earlier however, in 1973, Jesus Labrador sold said parcel of land to Navat for only Five Thousand (P5,000) Pesos. (Rollo, p. 37)

Sagrado thereupon filed, on November 28, 1975, against his brothers, Gaudencio and Jesus, for the annulment of said purported Deed of Absolute Sale over a parcel of land, which Sagrado allegedly had already acquired by devise from their father Melecio Labrador under a holographic will executed on March 17, 1968, the complaint for annulment docketed as Civil Case No. 934-I, being premised on the fact that the aforesaid Deed of Absolute Sale is fictitious.

After both parties had rested and submitted their respective evidence, the trial court rendered a joint decision dated February 28, 1985, allowing the probate of the holographic will and declaring null and void the Deed of Absolute Sale. The court a quo had also directed the respondents (the defendants in Civil Case no. 934-I) to reimburse to the petitioners the sum of P5,000.00 representing the redemption price for the property paid by the plaintiff-petitioner Sagrado with legal interest thereon from December 20, 1976, when it was paid to vendee a retro.

Respondents appealed the joint decision to the Court of Appeals, which on March 10, 1988 modified said joint decision the court a quo by denying the allowance of the probate of will for being undated and reversing the order of reimbursement. Petitioners' Motion for Reconsideration of the aforesaid decision was denied by the Court of Appeals, in the resolution of June 13, 1988. Hence, this petition.

Petitioners now assign the following errors committed by respondent court, to wit:

I

THE COURT OF APPEALS ERRED IN NOT ALLOWING AND APPROVING THE PROBATE OF THE HOLOGRAPHIC WILL OF THE TESTATOR MELECIO LABRADOR; and

II

THE COURT OF APPEALS ERRED IN FINDING THAT THE ORDER OF THE LOWER COURT DIRECTING THE REIMBURSEMENT OF THE FIVE THOUSAND PESOS REPRESENTING THE REDEMPTION PRICE WAS ERRONEOUS.

The alleged undated holographic will written in Ilocano translated into English, is quoted as follows:

"ENGLISH INTERPRETATION OF THE WILL OF THE LATE MELECIO LABRADOR WRITTEN IN ILOCANO

BY ATTY. FIDENCIO L. FERNANDEZ

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This is also where it appears in writing of the place which is assigned and shared or the partition in favor of SAGRADO LABRADOR which is the fishpond located and known place as Tagale.

And this place that is given as the share to him, there is a measurement of more or less one hectare, and the boundary at the South is the property and assignment share of ENRICA LABRADOR, also their sister, and the boundary in the West is the sea, known as the SEA as it is, and the boundary on the NORTH is assignment belonging to CRISTOBAL LABRADOR, who likewise is also their brother. That because it is now the time for me being now ninety three (93) years, then I feel it is the right time for me to partition the fishponds which were and had been bought or acquired by us, meaning with their two mothers, hence there shall be no differences among themselves, those among brothers and sisters, for it is I myself their father who am making the apportionment and delivering to each and everyone of them the said portion and assignment so that there shall not be any cause of troubles or differences among the brothers and sisters.

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And this is the day in which we agreed that we are making the partitioning and assigning the respective assignment of the said fishpond, and this being in the month of March, 17th day, in the year 1968, and this decision and or instruction of mine is the matter to be followed. And the one who made this writing is no other than MELECIO LABRADOR, their father.

Now, this is the final disposition that I am making in writing and it is this that should be followed and complied with in order that any differences or troubles may be forestalled and nothing will happen along these troubles among my children, and that they will be in good relations among themselves, brothers and sisters;

And those improvements and fruits of the land, mangoes, bamboos, and all coconut trees and all others like the other kind of bamboo by name of Bayog, it is their right to get if they so need, in order that there shall be nothing that anyone of them shall complain against the other, and against anyone of the brothers and sisters.

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And that referring to the other places of property, where the said property is located, the same being the fruits of our earnings of the two mothers of my children, there shall be equal portion of each share among themselves, and or to be benefitted with all those property, which property we have been able to acquire.

That in order that there shall be basis of the truth of this writing (WILL) which I am here hereof manifesting of the truth and of the fruits of our labor which their two mothers, I am signing my signature below hereof, and that this is what should be complied with, by all the brothers and sisters, the children of their two mothers - JULIANA QUINTERO PILARISA and CASIANA AQUINO VILLANUEVA Your father who made this writing (WILL), and he is, MELECIO LABRADOR y RALUTIN." (p. 46, Rollo)

The petition, which principally alleges that the holographic will is really dated, although the date is not in its usual place, is impressed with merit.

The will has been dated in the hand of the testator himself in perfect compliance with Article 810. It is worthy of note to quote the first paragraph of the second page of the holographic will, viz:

"And this is the day in which we agreed that we are making the partitioning and assigning the respective assignment of the said fishpond, and this being in the month of March, 17th day, in the year 1968, and this decision and or instruction of mine is the matter to be followed. And the one who made this writing is no other than MELECIO LABRADOR, their father." (underscoring supplied) (p. 46, Rollo)

The law does not specify a particular location where the date should be placed in the will. The only requirements are that the date be in the will itself and executed in the hand of the testator. These requirements are present in the subject will.

Respondents claim that the date 17 March 1968 in the will was when the testator and his beneficiaries entered into an agreement among themselves about "the partitioning and assigning the respective assignments of the said fishpond," and was not the date of execution of the holographic will; hence, the will is more of an "agreement" between the testator and the beneficiaries thereof to the prejudice of other compulsory heirs like the respondents. This was thus a failure to comply with Article 783 which defines a will as "an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain degree the disposition of his estate, to take effect after his death."

Respondents are in error. The intention to show 17 March 1968 as the date of the execution of the will is plain from the tenor of the succeeding words of the paragraph. As aptly put by petitioner, the will was not an agreement but a unilateral act of Melecio Labrador who plainly knew that what he was executing was a will. The act of partitioning and the declaration that such partitioning was the testator's instruction or decision to be followed reveal that Melecio Labrador was fully aware of the nature of the estate property to be disposed of and of the character of the testamentary act as a means to control the disposition of his estate.

Anent the second issue of finding the reimbursement of the P5,000 representing the redemption price as erroneous, respondent court's conclusion is incorrect. When private respondents sold the property (fishpond) with right to repurchase to Navat for P5,000, they were actually selling property belonging to another and which they had no authority to sell, rendering such sale null and void. Petitioners, thus "redeemed" the property from Navat for P5,000, to immediately regain possession of the property for its disposition in accordance with the will. Petitioners therefore deserve to be reimbursed the P5,000.

PREMISES CONSIDERED, the decision of the Court of Appeals dated March 10, 1988 is hereby **REVERSED**. The holographic will of Melecio Labrador is **APPROVED** and **ALLOWED** probate. The private respondents are directed to **REIMBURSE** the petitioners the sum of Five Thousand Pesos (P5,000.00).

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Justice Jorge S. Imperial and concurred in by Justices Jose A.R. Melo and Manuel C. Herrera.

[2] Article 810 provides: A person may execute a holographic will which must be entirely written, dated and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of the Philippines, and need not be witnessed.

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