

1 Phil. 182

[G.R. No. 445. March 31, 1902]

**PEDRO MARTINEZ, PLAINTIFF AND APPELLANT, VS. FRANCISCO MARTINEZ,
DEFENDANT AND APPELLEE.**

D E C I S I O N

COOPER, J.:

This is an action brought by Pedro Martinez Ilustre, the son and the compulsory legal heir, against Francisco Martinez Garcia for a declaration of prodigality against the father.

The allegations in the complaint are substantially: That Don Francisco Martinez, owing to his advanced age, is dissipating and squandering his estate by making donations to his second wife, Bofia Anastacia Ilustre, and to her parents of properties amounting to over \$200,000; that he has given over the administration of this estate to the management of his wife; that the defendant has a propensity for litigation and has instituted groundless actions against the plaintiff in order to take possession of the property held in common with the plaintiff to give it to his wife and her relatives.

In a supplementary prayer plaintiff asked the court to direct that the complaint be entered in the property register of the province, which was done by order of the court

The defendant in his answer denies the allegations in the complaint and sets forth a state of facts quite inconsistent with those alleged in the complaint.

Among other things, it is stated that he has executed in favor of the plaintiff a general power of attorney under which the plaintiff has administered the community estate for several years; that the plaintiff has caused the ships *Germana*, *Don Francisco*, and *Balayan*, belonging to the estate, to be registered in his own name without the consent of the father and is otherwise mismanaging and misappropriating the property of the estate, which caused the defendant to revoke the power of attorney given to plaintiff, and that the suit

brought by the defendant against the plaintiff was due to the attitude of the son, who, notwithstanding the fact that the power of attorney had been revoked, refused to render an account of his administration.

The Court of First Instance rendered judgment against the plaintiff and adjudged the costs against him. The plaintiff has appealed to this court.

The acts which constitute prodigality are not defined in the Civil Code owing to the difficulty of applying general rules to the varying circumstances of the case and the different situations of persons.

The declaration of prodigality must be made in an ordinary action (*en juicio contradictorio*). (Art. 221 of the Civil Code.)

The proceedings must be instituted by the consort or the forced heirs. (Art. 222 of the Civil Code.)

Under our law it may be inferred that the acts of prodigality must show a morbid state of mind and a disposition to spend, waste, and lessen the estate to such an extent as is likely to expose the family to want of support, or to deprive the forced heirs of their undisposable part of the estate.

Donations are considered as acts of liberality dictated by generosity and affection. All persons who can contract and dispose of property may make donations. (Art. 624 of the Civil Code.)

Donations may comprise all the actual property of the donor, except such as is required for the support of the donor in a condition corresponding to his circumstances. (Art. 634 of the Civil Code.)

And with further limitation that no person can give by a donation more than what he can give by testament.

A donation is considered inofficious in all that exceeds such limits. (Art. 636 of the Civil Code.)

Public policy requires that limitations of the character mentioned should be imposed upon the owner, but a law which would impose restrictions further than such as are required by public policy may well be regarded unjust and tending in a contrary direction, as

destroying*the incentive to acquire property, and as subduing the generous impulse of the heart.

Beyond these limitations the law does not attempt to adjust claims to generosity.

There were a number of witnesses introduced both by the plaintiff and by the defendant whose testimony it is unnecessary to recount.

The testimony on the part of the plaintiff was wholly insufficient to support the allegations of his complaint. It was vague, indefinite, and of an inconclusive nature.

The father's estate consisted of city property in Manila; of farms and of certain vessels, two of which are steamships. There is no evidence offered to show any transfers by sale or mortgage of these properties. This could have been easily done if such existed. Donations of real property must be made in a public deed (art. 633 of the Civil Code), and the acquisition of vessels must also be included in a written instrument, and produces no effect with regard to third persons if not recorded in the Commercial Registry. (Art. 573 of the Code of Commerce.)

There is no proof that there was any money belonging to the estate, or other personal property, the transfer of which could not be easily traced.

The son has been in possession of a greater part of the estate since November, 1897, collecting the revenue from the ships and rents from the city property.

The farms have been nonproductive on account of the disturbed conditions of the country, and the revenue from even these has been in part collected by the son.

While some of the witnesses state that the possessions of the wife have greatly increased since her marriage, there is no evidence whatever to show that there has been any perceptible diminution of the defendant's property. This can be accounted for only on the grounds that the father, so far from being a prodigal, is still in the full exercise of his faculties and still possesses the industry, thrift, and ability that resulted in the accumulation of a splendid estate after the date of his marriage with the mother of the plaintiff, to one-half of which estate the plaintiff has succeeded as heir of the mother.

A careful consideration of the evidence is sufficient to induce the belief that the plaintiff himself possesses that propensity for instituting lawsuits which he unjustly attributes to his father.

The judgment of the Court of First Instance is affirmed and costs of suits in both courts is adjudged against the plaintiff.

Arellano, C. J., Torres, Willard, Mapa, and Ladd, JJ., concur.

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