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# THIRD DIVISION

# [ G.R. No. 164201, December 10, 2012 ]

## EFREN PANA, PETITIONER, VS. HEIRS OF JOSE JUANITE, SR. AND JOSE JUANITE, JR., RESPONDENTS.

## D E C I S I O N

**ABAD, J.:**

This case is about the propriety of levy and execution on conjugal properties where one of the spouses has been found guilty of a crime and ordered to pay civil indemnities to the victims' heirs.

### The Facts and the Case

The prosecution accused petitioner Efren Pana (Efren), his wife Melecia, and others of murder before the Regional Trial Court (RTC) of Surigao City in Criminal Cases 4232 and 4233.[1]

On July 9, 1997 the RTC rendered a consolidated decision[2] acquitting Efren of the charge for insufficiency of evidence but finding Melecia and another person guilty as charged and sentenced them to the penalty of death. The RTC ordered those found guilty to pay each of the heirs of the victims, jointly and severally, P50,000.00 as civil indemnity, P50,000.00 each as moral damages, and P150,000.00 actual damages.

On appeal to this Court, it affirmed on May 24, 2001 the conviction of both accused but modified the penalty to *reclusion perpetua*. With respect to the monetary awards, the Court also affirmed the award of civil indemnity and moral damages but deleted the award for actual damages for lack of evidentiary basis. In its place, however, the Court made an award of P15,000.00 each by way of temperate damages. In addition, the Court awarded P50,000.00 exemplary damages per victim to be paid solidarily by them.[3] The decision became final and executory on October 1, 2001.[4]

Upon motion for execution by the heirs of the deceased, on March 12, 2002 the RTC ordered the issuance of the writ,[5] resulting in the levy of real properties registered in the names of Efren and Melecia.[6] Subsequently, a notice of levy[7] and a notice of sale on execution[8] were issued.

On April 3, 2002, petitioner Efren and his wife Melecia filed a motion to quash the writ of execution, claiming that the levied properties were conjugal assets, not paraphernal assets of Melecia.[9] On September 16, 2002 the RTC denied the motion.[10] The spouses moved for reconsideration but the RTC denied the same on

March 6, 2003.[11]

Claiming that the RTC gravely abused its discretion in issuing the challenged orders, Efren filed a petition for *certiorari* before the Court of Appeals (CA). On January 29, 2004 the CA dismissed the petition for failure to sufficiently show that the RTC gravely abused its discretion in issuing its assailed orders.[12] It also denied Efren's motion for reconsideration,[13] prompting him to file the present petition for review on *certiorari.*

**The Issue Presented**

The sole issue presented in this case is whether or not the CA erred in holding that the conjugal properties of spouses Efren and Melecia can be levied and executed upon for the satisfaction of Melecia's civil liability in the murder case.

**Ruling of the Court**

To determine whether the obligation of the wife arising from her criminal liability is chargeable against the properties of the marriage, the Court has first to identify the spouses' property relations.

Efren claims that his marriage with Melecia falls under the regime of conjugal partnership of gains, given that they were married prior to the enactment of the Family Code and that they did not execute any prenuptial agreement.[14] Although the heirs of the deceased victims do not dispute that it was the Civil Code, not the Family Code, which governed the marriage, they insist that it was the system of absolute community of property that applied to Efren and Melecia. The reasoning goes:

> Admittedly, the spouses were married before the effectivity of the Family Code. But that fact does not prevent the application of [A]rt. 94, last paragraph, of the Family Code because their property regime is precisely governed by the law on absolute community. This finds support in Art. 256 of the Family Code which states:
>
> > "This code shall have retroactive effect in so far as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws."
>
> None of the spouses is dead. Therefore, no vested rights have been acquired by each over the properties of the community. Hence, the liabilities imposed on the accused-spouse may properly be charged against the community as heretofore discussed.[15]

The RTC applied the same reasoning as above.[16] Efren and Melecia's property relation was admittedly conjugal under the Civil Code but, since the transitory provision of the Family Code gave its provisions retroactive effect if no vested or acquired rights are impaired, that property relation between the couple was changed when the Family Code took effect in 1988. The latter code now prescribes in Article 75 absolute community of property for all marriages unless the parties entered into

a prenuptial agreement. As it happens, Efren and Melecia had no prenuptial agreement. The CA agreed with this position.[17]

Both the RTC and the CA are in error on this point. While it is true that the personal stakes of each spouse in their conjugal assets are inchoate or unclear prior to the liquidation of the conjugal partnership of gains and, therefore, none of them can be said to have acquired vested rights in specific assets, it is evident that Article 256 of the Family Code does not intend to reach back and automatically convert into absolute community of property relation all conjugal partnerships of gains that existed before 1988 excepting only those with prenuptial agreements.

The Family Code itself provides in Article 76 that marriage settlements cannot be modified except prior to marriage.

> Art. 76. In order that any modification in the marriage settlements may be valid, it must be made before the celebration of the marriage, subject to the provisions of Articles 66, 67, 128, 135 and 136.

Clearly, therefore, the conjugal partnership of gains that governed the marriage between Efren and Melecia who were married prior to 1988 cannot be modified except before the celebration of that marriage.

Post-marriage modification of such settlements can take place only where: (a) the absolute community or conjugal partnership was dissolved and liquidated upon a decree of legal separation;[18] (b) the spouses who were legally separated reconciled and agreed to revive their former property regime;[19] (c) judicial separation of property had been had on the ground that a spouse abandons the other without just cause or fails to comply with his obligations to the family;[20] (d) there was judicial separation of property under Article 135; (e) the spouses jointly filed a petition for the voluntary dissolution of their absolute community or conjugal partnership of gains.[21] None of these circumstances exists in the case of Efren and Melecia.

What is more, under the conjugal partnership of gains established by Article 142 of the Civil Code, the husband and the wife place only the fruits of their separate property and incomes from their work or industry in the common fund. Thus:

> Art. 142. By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage.

This means that they continue under such property regime to enjoy rights of ownership over their separate properties. Consequently, to automatically change the marriage settlements of couples who got married under the Civil Code into absolute community of property in 1988 when the Family Code took effect would be to impair their acquired or vested rights to such separate properties.