

THIRD DIVISION

[G.R. No. 189776, December 15, 2010]

**AMELIA P. ARELLANO, REPRESENTED BY HER DULY APPOINTED
GUARDIANS, AGNES P. ARELLANO AND NONA P. ARELLANO,
PETITIONER, VS. FRANCISCO PASCUAL AND MIGUEL PASCUAL,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

Angel N. Pascual Jr. died intestate on January 2, 1999 leaving as heirs his siblings, namely: petitioner Amelia P. Arellano who is represented by her daughters^[1] Agnes P. Arellano (Agnes) and Nona P. Arellano, and respondents Francisco Pascual and Miguel N. Pascual.^[2]

In a petition for "Judicial Settlement of Intestate Estate and Issuance of Letters of Administration," docketed as Special Proceeding Case No. M-5034, filed by respondents on April 28, 2000 before the Regional Trial Court (RTC) of Makati, respondents alleged, *inter alia*, that a parcel of land (the donated property) located in Teresa Village, Makati, which was, by Deed of Donation, transferred by the decedent to petitioner the validity of which donation respondents assailed, "may be considered as an advance legitime" of petitioner.

Respondent's nephew Victor was, as they prayed for, appointed as Administrator of the estate by Branch 135 of the Makati RTC.^[3]

Respecting the donated property, now covered in the name of petitioner by Transfer Certificate of Title No. 181889 of the Register of Deeds of Makati, which respondents assailed but which they, in any event, posited that it "may be considered as an advance legitime" to petitioner, the trial court, acting as probate court, held that it was precluded from determining the validity of the donation.

Provisionally passing, however, upon the question of title to the donated property only for the purpose of determining whether it formed part of the decedent's estate,^[4] the probate court found the Deed of Donation valid in light of the presumption of validity of notarized documents. It thus went on to hold that it is subject to collation following Article 1061 of the New Civil Code which reads:^[5]

Every compulsory heir, who succeeds with other compulsory heirs, must bring into the mass of the estate any property or right which he may have received from the decedent, during the lifetime of the latter, by way of donation, or any other gratuitous title in order that it may be computed in the determination of the legitime of each heir, and in the account of the partition.

The probate court thereafter partitioned the properties of the intestate estate. Thus it disposed:

WHEREFORE, premises considered, judgment is hereby rendered declaring that:

1. The property covered by TCT No. 181889 of the Register of Deeds of Makati as part of the estate of Angel N. Pascual;
2. The property covered by TCT No. 181889 to be subject to collation;
3. 1/3 of the rental receivables due on the property at the mezzanine and the 3rd floor of Unit 1110 Tanay St., Makati City form part of the estate of Angel N. Pascual;
4. The following properties form part of the estate of Angel N. Pascual:
 - a. 1/3 share in the House and Lot at 1110 Tanay St., Rizal Village Makati TCT No. 348341 and 1/3 share in the rental income thereon;
 - b. 1/3 share in the Vacant Lot with an area of 271 square meters located at Tanay St., Rizal Village, Makati City, TCT No. 119063;
 - c. Agricultural land with an area of 3.8 hectares located at Puerta Galera Mindoro covered by OCT No. P-2159;
 - d. Shares of stocks in San Miguel Corporation covered by the following Certificate Numbers: A0011036, A006144, A082906, A006087, A065796, A11979, A049521, C86950, C63096, C55316, C54824, C120328, A011026, C12865, A10439, A021401, A007218, A0371, S29239, S40128, S58308, S69309;
 - e. Shares of stocks in Paper Industries Corp. covered by the following Certificate Numbers: S29239, S40128, S58308, S69309, A006708, 07680, A020786, S18539, S14649;
 - f. ¼ share in Eduardo Pascual's shares in Baguio Gold Mining Co.;
 - g. Cash in Banco De Oro Savings Account No. 2 014 12292 4 in the name of Nona Arellano;
 - h. Property previously covered by TCT No. 119053 now covered by TCT No. 181889, Register of Deeds of Makati City;

- i. Rental receivables from Raul Arellano per Order issued by Branch 64 of the Court on November 17, 1995.

5. AND the properties are partitioned as follows:

- a. To heir Amelia P. Arellano-the property covered by TCT No. 181889;
- b. To heirs Francisco N. Pascual and Miguel N. Pascual-the real properties covered by TCT Nos. 348341 and 119063 of the Register of Deeds of Makati City and the property covered by OCT No. 2159, to be divided equally between them up to the extent that each of their share have been equalized with the actual value of the property in 5(a) at the time of donation, the value of which shall be determined by an independent appraiser to be designated by Amelia P. Arellano, Miguel N. Pascual and Francisco N. Pascual. If the real properties are not sufficient to equalize the shares, then Francisco's and Miguel's shares may be satisfied from either in cash property or shares of stocks, at the rate of quotation. The remaining properties shall be divided equally among Francisco, Miguel and Amelia. (emphasis and underscoring supplied)

Before the Court of Appeals, petitioner faulted the trial court in holding that

I

. . . THE PROPERTY DONATED TO APPELLANT AMELIA PASCUAL ARELLANO IS PART OF THE ESTATE OF ANGEL PASCUAL, JR.

II

. . . THE PROPERTY DONATED TO APPELLANT IS SUBJECT TO COLLATION UNDER ARTICLE 1061 OF THE NEW CIVIL CODE.

III

. . . APPELLEES WHO ARE MERELY COLLATERAL RELATIVES OF DECEASED ANGEL N. PASCUAL JR. AS HIS COMPULSORY HEIRS ENTITLED TO LEGITIMES.

x x x x

and

V

. . . IN NOT PARTITIONING THE ESTATE OF ANGEL N. PASCUAL JR. EQUALLY AMONG HIS LEGAL OR INTESTATE HEIRS.^[6] (underscoring supplied)