

THIRD DIVISION

[G.R. NO. 133743, February 06, 2007]

**EDGAR SAN LUIS, PETITIONER, VS. FELICIDAD SAN LUIS,
RESPONDENT.**

[G.R. NO. 134029]

**RODOLFO SAN LUIS, PETITIONER, VS. FELICIDAD SAGALONGOS
ALIAS FELICIDAD SAN LUIS, RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

Before us are consolidated petitions for review assailing the February 4, 1998 Decision^[1] of the Court of Appeals in CA-G.R. CV No. 52647, which reversed and set aside the September 12, 1995^[2] and January 31, 1996^[3] Resolutions of the Regional Trial Court of Makati City, Branch 134 in SP. Proc. No. M-3708; and its May 15, 1998 Resolution^[4] denying petitioners' motion for reconsideration.

The instant case involves the settlement of the estate of Felicisimo T. San Luis (Felicisimo), who was the former governor of the Province of Laguna. During his lifetime, Felicisimo contracted three marriages. His first marriage was with Virginia Sulit on March 17, 1942 out of which were born six children, namely: Rodolfo, Mila, Edgar, Linda, Emilita and Manuel. On August 11, 1963, Virginia predeceased Felicisimo.

Five years later, on May 1, 1968, Felicisimo married Merry Lee Corwin, with whom he had a son, Tobias. However, on October 15, 1971, Merry Lee, an American citizen, filed a Complaint for Divorce^[5] before the Family Court of the First Circuit, State of Hawaii, United States of America (U.S.A.), which issued a Decree Granting Absolute Divorce and Awarding Child Custody on December 14, 1973.^[6]

On June 20, 1974, Felicisimo married respondent Felicidad San Luis, then surnamed Sagalongos, before Rev. Fr. William Meyer, Minister of the United Presbyterian at Wilshire Boulevard, Los Angeles, California, U.S.A.^[7] He had no children with respondent but lived with her for 18 years from the time of their marriage up to his death on December 18, 1992.

Thereafter, respondent sought the dissolution of their conjugal partnership assets and the settlement of Felicisimo's estate. On December 17, 1993, she filed a petition for letters of administration^[8] before the Regional Trial Court of Makati City, docketed as SP. Proc. No. M-3708 which was raffled to Branch 146 thereof.

Respondent alleged that she is the widow of Felicisimo; that, at the time of his

death, the decedent was residing at 100 San Juanico Street, New Alabang Village, Alabang, Metro Manila; that the decedent's surviving heirs are respondent as legal spouse, his six children by his first marriage, and son by his second marriage; that the decedent left real properties, both conjugal and exclusive, valued at P30,304,178.00 more or less; that the decedent does not have any unpaid debts. Respondent prayed that the conjugal partnership assets be liquidated and that letters of administration be issued to her.

On February 4, 1994, petitioner Rodolfo San Luis, one of the children of Felicisimo by his first marriage, filed a motion to dismiss^[9] on the grounds of improper venue and failure to state a cause of action. Rodolfo claimed that the petition for letters of administration should have been filed in the Province of Laguna because this was Felicisimo's place of residence prior to his death. He further claimed that respondent has no legal personality to file the petition because she was only a mistress of Felicisimo since the latter, at the time of his death, was still legally married to Merry Lee.

On February 15, 1994, Linda invoked the same grounds and joined her brother Rodolfo in seeking the dismissal^[10] of the petition. On February 28, 1994, the trial court issued an Order^[11] denying the two motions to dismiss.

Unaware of the denial of the motions to dismiss, respondent filed on March 5, 1994 her opposition^[12] thereto. She submitted documentary evidence showing that while Felicisimo exercised the powers of his public office in Laguna, he regularly went home to their house in New Alabang Village, Alabang, Metro Manila which they bought sometime in 1982. Further, she presented the decree of absolute divorce issued by the Family Court of the First Circuit, State of Hawaii to prove that the marriage of Felicisimo to Merry Lee had already been dissolved. Thus, she claimed that Felicisimo had the legal capacity to marry her by virtue of paragraph 2,^[13] Article 26 of the Family Code and the doctrine laid down in *Van Dorn v. Romillo, Jr.*^[14]

Thereafter, Linda, Rodolfo and herein petitioner Edgar San Luis, separately filed motions for reconsideration from the Order denying their motions to dismiss.^[15] They asserted that paragraph 2, Article 26 of the Family Code cannot be given retroactive effect to validate respondent's bigamous marriage with Felicisimo because this would impair vested rights in derogation of Article 256^[16] of the Family Code.

On April 21, 1994, Mila, another daughter of Felicisimo from his first marriage, filed a motion to disqualify Acting Presiding Judge Anthony E. Santos from hearing the case.

On October 24, 1994, the trial court issued an Order^[17] denying the motions for reconsideration. It ruled that respondent, as widow of the decedent, possessed the legal standing to file the petition and that venue was properly laid. Meanwhile, the motion for disqualification was deemed moot and academic^[18] because then Acting Presiding Judge Santos was substituted by Judge Salvador S. Tensuan pending the resolution of said motion.

Mila filed a motion for inhibition^[19] against Judge Tensuan on November 16, 1994. On even date, Edgar also filed a motion for reconsideration^[20] from the Order denying their motion for reconsideration arguing that it does not state the facts and law on which it was based.

On November 25, 1994, Judge Tensuan issued an Order^[21] granting the motion for inhibition. The case was re-raffled to Branch 134 presided by Judge Paul T. Arcangel.

On April 24, 1995,^[22] the trial court required the parties to submit their respective position papers on the twin issues of venue and legal capacity of respondent to file the petition. On May 5, 1995, Edgar manifested^[23] that he is adopting the arguments and evidence set forth in his previous motion for reconsideration as his position paper. Respondent and Rodolfo filed their position papers on June 14,^[24] and June 20,^[25] 1995, respectively.

On September 12, 1995, the trial court dismissed the petition for letters of administration. It held that, at the time of his death, Felicisimo was the duly elected governor and a resident of the Province of Laguna. Hence, the petition should have been filed in Sta. Cruz, Laguna and not in Makati City. It also ruled that respondent was without legal capacity to file the petition for letters of administration because her marriage with Felicisimo was bigamous, thus, void ab initio. It found that the decree of absolute divorce dissolving Felicisimo's marriage to Merry Lee was not valid in the Philippines and did not bind Felicisimo who was a Filipino citizen. It also ruled that paragraph 2, Article 26 of the Family Code cannot be retroactively applied because it would impair the vested rights of Felicisimo's legitimate children.

Respondent moved for reconsideration^[26] and for the disqualification^[27] of Judge Arcangel but said motions were denied.^[28]

Respondent appealed to the Court of Appeals which reversed and set aside the orders of the trial court in its assailed Decision dated February 4, 1998, the dispositive portion of which states:

WHEREFORE, the Orders dated September 12, 1995 and January 31, 1996 are hereby REVERSED and SET ASIDE; the Orders dated February 28 and October 24, 1994 are REINSTATED; and the records of the case is REMANDED to the trial court for further proceedings.^[29]

The appellate court ruled that under Section 1, Rule 73 of the Rules of Court, the term "place of residence" of the decedent, for purposes of fixing the venue of the settlement of his estate, refers to the personal, actual or physical habitation, or actual residence or place of abode of a person as distinguished from legal residence or domicile. It noted that although Felicisimo discharged his functions as governor in Laguna, he actually resided in Alabang, Muntinlupa. Thus, the petition for letters of administration was properly filed in Makati City.

The Court of Appeals also held that Felicisimo had legal capacity to marry respondent by virtue of paragraph 2, Article 26 of the Family Code and the rulings in *Van Dorn v. Romillo, Jr.*^[30] and *Pilapil v. Ibay-Somera*.^[31] It found that the marriage between Felicisimo and Merry Lee was validly dissolved by virtue of the

decree of absolute divorce issued by the Family Court of the First Circuit, State of Hawaii. As a result, under paragraph 2, Article 26, Felicisimo was capacitated to contract a subsequent marriage with respondent. Thus -

With the well-known rule - express mandate of paragraph 2, Article 26, of the Family Code of the Philippines, the doctrines in Van Dorn, Pilapil, and the reason and philosophy behind the enactment of E.O. No. 227, - there is no justiciable reason to sustain the individual view - sweeping statement - of Judge Arc[h]angel, that "Article 26, par. 2 of the Family Code, contravenes the basic policy of our state against divorce in any form whatsoever." Indeed, courts cannot deny what the law grants. All that the courts should do is to give force and effect to the express mandate of the law. The foreign divorce having been obtained by the Foreigner on December 14, 1992,^[32] the Filipino divorcee, "shall x x x have capacity to remarry under Philippine laws". For this reason, the marriage between the deceased and petitioner should not be denominated as "a bigamous marriage.

Therefore, under Article 130 of the Family Code, the petitioner as the surviving spouse can institute the judicial proceeding for the settlement of the estate of the deceased. x x x^[33]

Edgar, Linda, and Rodolfo filed separate motions for reconsideration^[34] which were denied by the Court of Appeals.

On July 2, 1998, Edgar appealed to this Court *via* the instant petition for review on *certiorari*.^[35] Rodolfo later filed a manifestation and motion to adopt the said petition which was granted.^[36]

In the instant consolidated petitions, Edgar and Rodolfo insist that the venue of the subject petition for letters of administration was improperly laid because at the time of his death, Felicisimo was a resident of Sta. Cruz, Laguna. They contend that pursuant to our rulings in *Nuval v. Guray*^[37] and *Romualdez v. RTC, Br. 7, Tacloban City*,^[38] "residence" is synonymous with "domicile" which denotes a fixed permanent residence to which when absent, one intends to return. They claim that a person can only have one domicile at any given time. Since Felicisimo never changed his domicile, the petition for letters of administration should have been filed in Sta. Cruz, Laguna.

Petitioners also contend that respondent's marriage to Felicisimo was void and bigamous because it was performed during the subsistence of the latter's marriage to Merry Lee. They argue that paragraph 2, Article 26 cannot be retroactively applied because it would impair vested rights and ratify the void bigamous marriage. As such, respondent cannot be considered the surviving wife of Felicisimo; hence, she has no legal capacity to file the petition for letters of administration.

The issues for resolution: (1) whether venue was properly laid, and (2) whether respondent has legal capacity to file the subject petition for letters of administration.

The petition lacks merit.

Under Section 1,^[39] Rule 73 of the Rules of Court, the petition for letters of administration of the estate of Felicisimo should be filed in the Regional Trial Court of the province "in which he *resides* at the time of his death." In the case of *Garcia Fule v. Court of Appeals*,^[40] we laid down the doctrinal rule for determining the residence - as contradistinguished from domicile - of the decedent for purposes of fixing the venue of the settlement of his estate:

[T]he term "resides" connotes *ex vi termini* "actual residence" as distinguished from "legal residence or domicile." This term "resides," like the terms "residing" and "residence," is elastic and should be interpreted in the light of the object or purpose of the statute *or rule* in which it is employed. In the application of venue statutes and rules - Section 1, Rule 73 of the Revised Rules of Court is of such nature - residence *rather than* domicile is the significant factor. Even where the statute uses the word "domicile" still it is construed as meaning residence and not domicile in the technical sense. Some cases make a distinction between the terms "residence" and "domicile" but as generally used in statutes fixing venue, the terms are synonymous, and convey the same meaning as the term "inhabitant." In other words, "resides" should be viewed or understood in its popular sense, meaning, **the personal, actual or physical habitation of a person, actual residence or place of abode.** It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, **not legal residence or domicile.** Residence simply requires bodily presence as an *inhabitant* in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. No particular length of time of residence is required though; however, the residence must be more than temporary.^[41](Emphasis supplied)

It is incorrect for petitioners to argue that "residence," for purposes of fixing the venue of the settlement of the estate of Felicisimo, is synonymous with "domicile." The rulings in *Nuval* and *Romualdez* are inapplicable to the instant case because they involve election cases. Needless to say, there is a distinction between "residence" for purposes of election laws and "residence" for purposes of fixing the venue of actions. In election cases, "residence" and "domicile" are treated as synonymous terms, that is, the fixed permanent residence to which when absent, one has the intention of returning.^[42] However, for purposes of fixing venue under the Rules of Court, the "residence" of a person is his personal, actual or physical habitation, or actual residence or place of abode, which may not necessarily be his legal residence or domicile provided he resides therein with continuity and consistency.^[43] Hence, it is possible that a person may have his residence in one place and domicile in another.

In the instant case, while petitioners established that Felicisimo was domiciled in Sta. Cruz, Laguna, respondent proved that he also maintained a residence in Alabang, Muntinlupa from 1982 up to the time of his death. Respondent submitted in evidence the Deed of Absolute Sale^[44] dated January 5, 1983 showing that the deceased purchased the aforesaid property. She also presented billing statements^[45] from the Philippine Heart Center and Chinese General Hospital for the period August to December 1992 indicating the address of Felicisimo at "100