

## THIRD DIVISION

[ G.R. No. 124118, March 27, 2000 ]

**MARINO, RENATO, LETICIA, IMELDA, ALICIA, LIGAYA, AND ZENAIDA, ALL SURNAMED ADRIANO, PETITIONERS, VS. COURT OF APPEALS, CELESTINA, MANOLO AND AIDA, ALL SURNAMED ADRIANO, RESPONDENTS.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

Petition for review on *certiorari* of the Decision of the Court of Appeals, Second Division,<sup>[1]</sup> affirming *in toto* the Joint Order of the Regional Trial Court of Lucena City, Branch 55,<sup>[2]</sup> which dismissed Civil Case No. 88-115 for annulment of will and ordered the disposition of the estate of Lucio Adriano in accordance with the provisions of his last will and testament in Spec. Proc. No. 4442.

The pertinent facts are as follows:

The testator, Lucio Adriano, also known as Ambrocio Adriano, married Gliceria Dorado on October 29, 1933. Out of their lawful marriage, they had three children, namely, Celestina, Manolo, and Aida, private respondents in this case. Sometime in 1942 or prior thereto, Lucio and Gliceria separated, and Gliceria settled in Rizal, Laguna where she died on June 11, 1968. Also in 1942 or even earlier, Lucio cohabited with Vicenta Villa, with whom he had eight children: Marino, Renato, Leticia, Imelda, Maria Alicia, Ligaya, Jose Vergel, and Zenaida, all surnamed Adriano. All his children by Vicenta Villa are the named petitioners in the instant case, with the exception of Jose Vergel, who died before the inception of the proceedings.

On November 22, 1968, or five months after the death of Gliceria, Lucio married Vicenta. Lucio and Vicenta and their children lived in Candelaria, Quezon until the spouses separated in 1972.<sup>[3]</sup>

On October 10, 1980, Lucio executed a last will and testament disposing of all his properties, and assigning, among others, his second wife Vicenta and all his children by his first and second marriages as devisees and legatees therein. Among the properties bequeathed in the will were a 45,000 square meter lot and the residential house, rice mill, warehouse and equipment situated thereon located in Candelaria, Quezon and registered under Transfer Certificate of Title ("TCT") No. T-56553 in the Registry of Deeds of Quezon<sup>[4]</sup>, which was disposed of in the following manner: (1) to private respondents, Lucio's children by his first wife, 10,000 square meters of the disputed property, including the warehouse, rice mill, and equipment situated thereon; (2) to Vicenta and petitioners, his children by his second marriage, the remaining 35,000 square meters; and (3) to private respondents, the residential

house also within the same property.<sup>[5]</sup>

On February 11, 1981, Lucio died and private respondent Celestina Adriano, who was instituted in Lucio's will as its executrix, filed a petition for the probate of the will on February 18, 1981 before the RTC of Lucena City. The probate case was docketed as Spec. Proc. No. 4442. After due hearing and despite the Opposition filed by Vicenta, the RTC allowed the probate of the will and directed the issuance of letters testamentary to petitioner-executrix Celestina Adriano in an Order dated August 22, 1983. On November 10, 1983, Vicenta appealed said Order to the then Intermediate Appellate Court, which in turn affirmed the probate of the will. Vicenta died on July 2, 1985.<sup>[6]</sup>

On August 17, 1988, and while the proceedings for settlement of estate were pending before the RTC, petitioners instituted an action for annulment of Lucio Adriano's will which was docketed as Civil Case No. 88-115. In the complaint, plaintiffs-petitioners alleged that before the marriage of Lucio and their mother, Vicenta, on November 22, 1968, the two lived together as husband and wife and as such, acquired properties which became the subject of inventory and administration in Spec. Proc. No. 4442. Plaintiffs claimed that the properties bequeathed in Lucio's will are undivided "civil partnership and/or conjugal properties of Lucio Adriano and Vicenta Villa", and thus, the will sought to be probated should be declared void and ineffective insofar as it disposes of the rightful share or properties of Vicenta.<sup>[7]</sup>

It is also not disputed that the contested properties in Civil Case No. 88-115 and Spec. Proc. No. 4442 were also the subject of a complaint filed sometime in 1980 by Vicenta against Lucio, docketed with the then Court of First Instance of Quezon, Lucena City, Branch II as Civil Case No. 7534, wherein Vicenta sought the provisional partition or separation of the properties *pendente lite*. The case was dismissed on January 28, 1991 without prejudice, for lack of interest.

Spec. Proc. No. 4442 and Civil Case No. 88-115 were consolidated and jointly heard by the RTC.

The trial court favored the evidence of private respondents, which indicated that the purchase money for the contested properties came from the earnings of Lucio in a business partnership that he entered into in 1947, or during the subsistence of his marriage to Gliceria. The trial court further found that Lucio's initial capital infusion of P15,000.00 in the business partnership was in fact obtained from the conjugal fund of his first marriage. The evidence of private respondents is thus summarized by the trial court:

Defendants' evidence, on the other hand, tends to show that the original common fund of Lucio (Ambrocio) Adriano in the amount of P15,000.00 was invested by Lucio Adriano in a partnership called the "Central Rice Mill & Co." which was formed and organized on November 30, 1947. Such initial investment came from the savings of Lucio Adriano and Gliceria Dorado before World War II, which was earned by said spouses by means of ambulant peddling of betel nuts and ikmo leaves and, subsequently, by the selling of (a) variety (of) goods and rice retailing at a market stall which they acquired at the public market of Candelaria, Quezon. On

these savings, spouses Lucio Adriano and Gliceria Dorado added the proceeds of the sale of a "fairbanks" rice mill made during the Japanese occupation, sometime between the years 1943 and 1944. The same rice mill was then located at the south end of Gonzales Street near the public market of Candelaria, Quezon, and was acquired by the same spouses through their joint efforts and industry made from the time of their marriage in 1933.

It is likewise shown by defendants' evidence that on January 8, 1951, the Articles of Co-Partnership of "Central Rice Mill & Co." was amended and its name was changed to "Quezon Central Rice Mill & Co." Lucio Adriano then made a new investment into the partnership out of savings from the conjugal partnership with Gliceria Dorado for the period 1947 until 1950 in the amount of P18,750.00 (Exhibit "1-A") thereby increasing his investment to P33,750.00 (par. 7(c) of Amended Articles of Co-Partnership, Exhibit "1-A"). On January 22, 1952, another partnership called "The Lessee of the Quezon Central Rice Mill" as formed by Lucio (Ambrocio) Adriano and four (4) partners and he invested the amount of P25,000.00 (Exhibit "2") thereby making his total capital investment reach the amount of P58,750.00.

On May 3, 1952, Lucio Adriano bought the share of Tan Kim alias "Joaquin Tan", a partner who withdrew from the partnership of the Quezon Central Rice Mill & Co. and who, in consideration of the sum of P34,342.55, executed a Deed of Sale and Mortgage (Exhibit "3") in favor of Lucio Adriano covering his proportional share in the properties of the partnership consisting of two (2) rice mills, two (2) diesel engines and a camarin, which are situated at Candelaria, Quezon. Lucio Adriano declared these properties in his name for taxation purposes under TCT Property Index No. 22-11-01-043-B (Exhibit "4") and Tax Declaration No. 564 (Exhibit "5").

All in all, the withdrawals made out of the savings of the conjugal partnership of Lucio Adriano and his wife, Gliceria Dorado, are the following:

1. Upon signing of the contract of sale and mortgage (Exhibit "3"), Lucio Adriano paid the sum of P10,342.45 and the balance of P24,000.00, as reflected in the statement of account of Tan Kim as receivables from Lucio Adriano (Exhibit "6") were settled on subsequent dates;
2. Original copy of a receipt dated May 3, 1953 (Exhibit "7") covering expenses of registration of Exhibit "3" in the sum of P160.00;
3. Handwritten list of registration expenses (Exhibit "8"); and
4. Originals of receipts covering amounts paid by Lucio Adriano to Tan Kim on various dates from June 3, 1953 (Exhibits "9" to "20", inclusive) in the aggregate sum of P24,492.15.

It likewise appears from the evidence of the defendants that by the end of 1953, the total capital investment of Lucio Adriano taken from his conjugal partnership with his first wife, Gliceria Dorado, reached the amount of P94,744.88. In the late part of 1954, however, the same partnership was dissolved by means of a verbal agreement reached by Lucio Adriano and his partners and this resulted to an equal division of the partnership properties with the left portion thereof going to Tan Kang and Tan Giam and the right portion, to Lucio Adriano and Francisco Ramirez. Furthermore, by the end of 1955, Francisco Ramirez withdrew his share totalling P16,250.00 in favor of Lucio Adriano, who acquired the same, and from that time on, the latter became the sole owner of the rice mill which he later registered as the "Adriano Central Rice Mill". When the partnership was finally dissolved in 1955, the total capital investment of Lucio Adriano therein was P110,994.88, consisting of the fruit or income of his common fund with Gliceria Dorado, which was cumulatively used in the acquisition of other properties listed in the Inventory submitted to this Court by the administratrix and defendant, Celestina Adriano de Arcilla on February 19, 1987.<sup>[8]</sup>

The decretal portion of the Order dated May 8, 1991 issued by the RTC of Lucena City reads:

WHEREFORE, judgment is hereby rendered as follows:

1. In Civil Case No. 88-115, this Court finds and so holds that no cogent reasons or grounds exist to affect adversely, if not nullify, the testamentary dispositions and provisions contained in the Last Will and Testament of the late Lucio (Ambrocio) Adriano. Accordingly, the complaint filed in this case is hereby ordered dismissed with costs against plaintiffs.

In like manner, the counterclaim is hereby ordered dismissed.

2. In Spec. Proc. No. 4442, it is hereby ordered that the settlement, liquidation, and partitioning of the estate of the late Lucio (Ambrocio) Adriano, more particularly the delivery of the respective shares of his heirs, the plaintiffs and defendants, be effected and implemented in accordance with the testamentary provisions set forth in the Last Will and Testament of the testator, Lucio (Ambrocio) Adriano.

SO ORDERED.<sup>[9]</sup>

The Court of Appeals dismissed petitioners' appeal for lack of merit, and affirmed *in toto* the Joint Order of the RTC of Lucena City.