349 Phil. 883

THIRD DIVISION

[G.R. No. 118449, February 11, 1998]

LAURO G. VIZCONDE, PETITIONER, VS., COURT OF APPEALS, REGIONAL TRIAL COURT, BRANCH 120, CALOOCAN CITY, AND RAMON G. NICOLAS, RESPONDENTS.

D E C I S I O N

FRANCISCO, J.:

Petitioner Lauro G. Vizconde and his wife Estrellita Nicolas-Vizconde had two children, *viz*., Carmela and Jennifer. Petitioner's wife, Estrellita, is one of the five siblings of spouses Rafael Nicolas and Salud Gonzales-Nicolas. The other children of Rafael and Salud are Antonio Nicolas; Ramon Nicolas; Teresita Nicolas de Leon, and Ricardo Nicolas, an incompetent. Antonio predeceased his parents and is now survived by his widow, Zenaida, and their four children.

On May 22, 1979, Estrellita purchased from Rafael a parcel of land with an area of 10,110 sq. m. located at Valenzuela, Bulacan (hereafter Valenzuela property) covered by TCT No. (T-36734) 13206 for One Hundred Thirty Five Thousand Pesos (P135,000.00), evidenced by a "Lubusang Bilihan ng Bahagi ng Lupa na Nasasakupan ng Titulo TCT NO. T-36734."[1] In view thereof, TCT No. V-554 covering the Valenzuela property was issued to Estrellita.[2] On March 30, 1990, Estrellita sold the Valenzuela property to Amelia Lim and Maria Natividad Balictar Chiu for Three Million, Four Hundred Five Thousand, Six Hundred Twelve Pesos (₱3,405,612.00).[3] In June of the same year, Estrellita bought from Premiere Homes, Inc., a parcel of land with improvements situated at Vinzon St., BF Homes, Parañaque (hereafter Parañaque property) using a portion of the proceeds was used in buying a car while the balance was deposited in a bank.

The following year an unfortunate event in petitioner's life occurred. Estrellita and her two daughters, Carmela and Jennifer, were killed on June 30, 1991, an incident popularly known as the "Vizconde Massacre". The findings of the investigation conducted by the NBI reveal that Estrellita died ahead of her daughters.[4] Accordingly, Carmela, Jennifer and herein petitioner succeeded Estrellita and, with the subsequent death of Carmela and Jennifer, petitioner was left as the sole heir of his daughters. Nevertheless, petitioner entered into an "Extra-Judicial Settlement of the Estate of Deceased Estrellita Nicolas-Vizconde With Waiver of Shares",[5] with Rafael and Salud, Estrellita's parents. The extra-judicial settlement provided for the division of the properties of Estrellita and her two daughters between petitioner and spouses Rafael and Salud. The properties include bank deposits, a car and the Parañaque property. The total value of the deposits deducting the funeral and other related expenses in the burial of Estrellita, Carmela and Jennifer, amounts to Three Million Pesos (₱3,000,000.00).[6] The settlement gave fifty percent (50%) of the total amount of the bank deposits of Estrellita and her daughters to Rafael, except Saving Account No. 104-111211-0 under the name of Jennifer which involves a token amount. The other

fifty percent (50%) was allotted to petitioner. The Parañaque property and the car were also given to petitioner with Rafael and Salud waiving all their "claims, rights, ownership and participation as heirs"[7] in the said properties.

On November 18, 1992, Rafael died. To settle Rafael's estate, Teresita instituted an intestate estate proceeding[8] docketed as Sp. Proc. No. C-1679, with Branch 120 of the Regional Trial Court (RTC) of Caloocan City listing as heirs Salud, Ramon, Ricardo and the wife (Zenaida) and children of Antonio. Teresita prayed to be appointed Special Administratrix of Rafael's estate. Additionally, she sought to be appointed as guardian *ad litem* of Salud, now senile, and Ricardo, her incompetent brother. Herein private respondent Ramon filed an opposition[9] dated March 24, 1993, praying to be appointed instead as Salud and Ricardo's guardian. Barely three weeks passed, Ramon filed another opposition[10] alleging, among others, that Estrellita was given the Valenzuela property by Rafael which she sold for not les than Six Million Pesos (₱6,000,000.00) before her gruesome murder. Ramon pleaded for court's intervention "to determine the legality and validity of the intervivos distribution made by deceased Rafael to his children,"[11] Estrellita included. On May 12, 1993, Ramon filed his own petition, docketed as Sp. Proc. No. C-1699, entitled "InMatter Of The Guardianship Of Salud G. Nicolas and Ricardo G. Nicolas" and averred that their legitime should come from the collation of all the properties distributed to his children by Rafael during his lifetime.[12] Ramon stated that herein petitioner is one of Rafael's children "by right of representation as the widower of deceased legitimate daughter of Estrellita."[13]

In a consolidated Order, dated November 9, 1993, the RTC appointed Ramon as the Guardian of Salud and Ricardo while Teresita, in turn, was appointed as the Special Administratrix of Rafael's estate. The court's Order did not include petitioner in the slate of Rafael's heirs.[14] Neither was the Parañaque property listed in its list of properties to be included in the estate.[15] Subsequently, the RTC in an Order dated January 5, 1994, removed Ramon as Salud and Ricardo's guardian for selling his ward's property without the court's knowledge and permission.[16]

Sometime on January 13, 1994, the RTC released an Order giving petitioner "ten (10) days x x x within which to file any appropriate petition or motion related to the pending petition insofar as the case is concerned and to file any opposition to any pending motion that has been filed by both the counsels for Ramon Nicolas and Teresita de Leon." In response, petitioner filed a Manifestation, dated January 19, 1994, stressing tha the was neither a compulsory heir nor an intestate heir of Rafael and he has no interest to participate in the proceedings. The RTC noted said Manifestation in its Order dated February 2, 1994.[17] Despite the Manifestation, Ramon, through a motion dated February 14, 1994, moved to include petitioner in the intestate estate proceeding and asked that the Parañaque property, as well as the car and the balance of the proceeds of the sale of the Valenzuela property, be collated.[18] Acting on Ramon's motion, the trial court on March 10, 1994 granted the same in an Order which pertinently reads as follows:

x x x x x x x x x

> "On the Motion To Include Lauro G. Vizconde In Intestate proceedings in instant case and considering the comment on hi Manifestation, the same is hereby granted."[19]

x x x x x x x x x

Petitioner filed its motion for reconsideration of the aforesaid Order which Ramon opposed.[20] On August 12, 1994, the RTC rendered an Order denying petitioner's motion for reconsideration. It provides:

x x x x x x x x x

> "The centerpoint of oppositor-applicant's argument is that spouses Vizconde were then financially incapable of having purchased or acquired for a valuable consideration the property at Valenzuela from the deceased Rafael Nicolas. Admittedly, the spouses Vizconde were then living with the deceased Rafael Nicolas in the latter's ancestral home. In fact, as the argument further goes, said spouses were dependent for support on the deceased Rafael Nicolas. And Lauro Vizconde left for the United States in, *de-facto* separation, from the family for sometime and returned to the Philippines only after the occurrence of violent deaths of Estrellita and her two daughters.
>
> "To dispute the contention that the spouses Vizconde were financially incapable to buy the property from the late Rafael Nicolas, Lauro Vizconde claims that they have been engaged in business venture such as taxi business, canteen concessions and garment manufacturing. However, no competent evidence has been submitted to indubitably support the business undertakings adverted to.
>
> "In fine, there is no sufficient evidence to show that the acquisition of the property from Rafael Nicolas was for a valuable consideration.
>
> "Accordingly, the transfer of the property at Valenzuela in favor of Estrellita by her father was gratuitous and the subject property in Parañaque which was purchased out of the proceeds of the said transfer of property by the deceased Rafael Nicolas in favor of Estrellita, is subject to collation."
>
> "WHEREFORE, the motion for reconsideration is hereby DENIED."[21] (Underscoring added)

Petitioner filed a petition for *certiorari* and prohibition with respondent Court of Appeals. In its decision of December 14, 1994, respondent Court of Appeals[22] denied the petition stressing that the RTC correctly adjudicated the question on the title of the Valenzuela property as "the jurisdiction of the probate court extends to matters incidental and collateral to the exercise of its recognized powers in handling the settlement of the estate of the deceased (Cf.: Sec. 1, Rule 90, Revised Rules of Court)."[23] Dissatisfied, petitioner filed the instant petition for review on *certiorari*. Finding *prima facie* merit, the Court on December 4, 1995, gave due course to the petition and required the parties to submit their respective memoranda.

The core issue hinges on the validity of the probate court's Order, which respondent Court of Appeals sustained, nullifying the transfer of the Valenzuela property from Rafael to Estrellita and declaring the Parañaque property as subject to collation.

The appeal is well taken.

Basic principles of collation need to be emphasized at the outset. Article 1061 of the Civil Code speaks of collation. It states:

> "Art. 1061. 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."

Collation is the act by virtue of which descendants or other forced heirs who intervene in the division of the inheritance of an ascendant bring into the common mass, the property which they received from him, so that the division may be made according to law and the will of the testator.[24] Collation is only required of compulsory heirs succeeding with other compulsory heirs and involves property or rights received by donation or gratuitous title during the lifetime of the decedent.[25] The purpose for it is presumed that the intention of the testator or predecessor in interest in making a donation or gratuitous transfer to a forced heir is to give him something in advance on account of his share in the estate, and that the predecessor's will is to treat all his heirs equally, in the absence of any expression to the contrary.[26] Collation does not impose any lien on the property or the subject matter of collationable donation. What is brought to collation is not the property donated itself, but rather the value of such property at the time it was donated,[27] the rationale being that the donation is a real alienation which conveys ownership upon its acceptance, hence any increase in value or any deterioration or loss thereof is for the account of the heir or donee.[28]

The attendant facts herein do no make a case of collation. We find that the probate court, as well as respondent Court of Appeals, committed reversible errors.

> First: The probate court erred in ordering the inclusion of petitioner in the intestate estate proceeding. Petitioner, a son-in-law of Rafael, is one of Rafael's compulsory heirs. Article 887 of the Civil Code is clear on this point:
>
> "Art. 887. The following are compulsory heirs:
>
> (1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;
>
> (2) In default of the following, legitimate parents and ascendants, with respect to their legitimate children and ascendants;
>
> (3) The widow or widower;
>
> (4) Acknowledged natural children, and natural children by legal fiction;
>
> (5) Other illegitimate children referred to in article 287.
>
> "Compulsory heirs mentioned in Nos. 3, 4, and 5 are not excluded by those in Nos 1 and 2; neither do they exclude one another.
>
> "In all cases of illegitimate children, their filiation must be duly proved.
>
> "The father or mother of illegitimate children of the three classes mentioned, shall inherit from them in the manner and to the extent established by this Code."

With respect to Rafael's estate, therefore, petitioner who was not even shown to be a creditor of Rafael is considered a third person or a stranger.[29] As such, petitioner may