360 Phil. 601

SECOND DIVISION

[G.R. No. 124862, December 22, 1998]

FE D. QUITA, PETITIONER, VS. COURT OF APPEALS AND BLANDINA DANDAN,* RESPONDENTS.

D E C I S I O N

BELLOSILLO, J .:

FE D. QUITA and Arturo T. Padlan, both Filipinos, were married in the Philippines on 18 May 1941. They were not however blessed with children. Somewhere along the way their relationship soured. Eventually Fe sued Arturo for divorce in San Francisco, California, U.S.A. She submitted in the divorce proceedings a private writing dated 19 July 1950 evidencing their agreement to live separately from each other and a settlement of their conjugal properties. On 23 July 1954 she obtained a final judgment of divorce. Three (3) weeks thereafter she married a certain Felix Tupaz in the same locality but their relationship also ended in a divorce. Still in the U.S.A., she married for the third time, to a certain Wernimont.

On 16 April 1972 Arturo died. He left no will. On 31 August 1972 Lino Javier Inciong filed a petition with the Regional Trial Court of Quezon City for issuance of letters of administration concerning the estate of Arturo in favor of the Philippine Trust Company. Respondent Blandina Dandan (also referred to as *Blandina Padlan*), claiming to be the surviving spouse of Arturo Padlan, and Claro, Alexis, Ricardo, Emmanuel, Zenaida and Yolanda, all surnamed Padlan, named in the petition as surviving children of Arturo Padlan, opposed the petition and prayed for the appointment instead of Atty. Leonardo Cabasal, which was resolved in favor of the latter. Upon motion of the oppositors themselves, Atty. Cabasal was later replaced by Higino Castillon. On 30 April 1973 the oppositors (Blandina and the Padlan children) submitted certified photocopies of the 19 July 1950 private writing and the final judgment of divorce between petitioner and Arturo. Later Ruperto T. Padlan, claiming to be the sole surviving brother of the deceased Arturo, intervened.

On 7 October 1987 petitioner moved for the immediate declaration of heirs of the decedent and the distribution of his estate. At the scheduled hearing on 23 October 1987, private respondent as well as the six (6) Padlan children and Ruperto failed to appear despite due notice. On the same day, the trial court required the submission of the records of birth of the Padlan children within ten (10) days from receipt thereof, after which, with or without the documents, the issue on the declaration of heirs would be considered submitted for resolution. The prescribed period lapsed without the required documents being submitted.

The trial court invoking *Tenchavez v. Escaño*[1] which held that "a foreign divorce between Filipino citizens sought and decreed after the effectivity of the present Civil Code (Rep. Act 386) was not entitled to recognition as valid in this jurisdiction,"[2] disregarded the divorce between petitioner and Arturo. Consequently, it expressed

the view that their marriage subsisted until the death of Arturo in 1972. Neither did it consider valid their extrajudicial settlement of conjugal properties due to lack of judicial approval.[3] On the other hand, it opined that there was no showing that marriage existed between private respondent and Arturo, much less was it shown that the alleged Padlan children had been acknowledged by the deceased as his children with her. As regards Ruperto, it found that he was a brother of Arturo. On 27 November 1987[4] only petitioner and Ruperto were declared the intestate heirs of Arturo. Accordingly, equal adjudication of the net hereditary estate was ordered in favor of the two intestate heirs.[5]

On motion for reconsideration, Blandina and the Padlan children were allowed to present proofs that the recognition of the children by the deceased as his legitimate children, except Alexis who was recognized as his illegitimate child, had been made in their respective records of birth. Thus on 15 February 1988[6] partial reconsideration was granted declaring the Padlan children, with the exception of Alexis, entitled to one-half of the estate to the exclusion of Ruperto Padlan, and petitioner to the other half.[7] Private respondent was not declared an heir. Although it was stated in the aforementioned records of birth that she and Arturo were married on 22 April 1947, their marriage was clearly void since it was celebrated during the existence of his previous marriage to petitioner.

In their appeal to the Court of Appeals, Blandina and her children assigned as one of the errors allegedly committed by the trial court the circumstance that the case was decided without a hearing, in violation of Sec. 1, Rule 90, of the Rules of Court, which provides that *if there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.*

Respondent appellate court found this ground alone sufficient to sustain the appeal; hence, on 11 September 1995 it declared null and void the 27 November 1987 decision and 15 February 1988 order of the trial court, and directed the remand of the case to the trial court for further proceedings.[8] On 18 April 1996 it denied reconsideration.[9]

Should this case be remanded to the lower court for further proceedings? Petitioner insists that there is no need because, first, no legal or factual issue obtains for resolution either as to the heirship of the Padlan children or as to their respective shares in the intestate estate of the decedent; and, second, the issue as to who between petitioner and private respondent is the proper heir of the decedent is one of law which can be resolved in the present petition based on established facts and admissions of the parties.

We cannot sustain petitioner. The provision relied upon by respondent court is clear: *If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.*

We agree with petitioner that no dispute exists either as to the right of the six (6) Padlan children to inherit from the decedent because there are proofs that they have

been duly acknowledged by him and petitioner herself even recognizes them as heirs of Arturo Padlan;[10] nor as to their respective hereditary shares. But controversy remains as to who is the legitimate surviving spouse of Arturo. The trial court, after the parties other than petitioner failed to appear during the scheduled hearing on 23 October 1987 of the motion for immediate declaration of heirs and distribution of estate, simply issued an order requiring the submission of the records of birth of the Padlan children within ten (10) days from receipt thereof, after which, with or without the documents, the issue on declaration of heirs would be deemed submitted for resolution.

We note that in her comment to petitioner's motion private respondent raised, among others, the issue as to whether petitioner was still entitled to inherit from the decedent considering that she had secured a divorce in the U.S.A. and in fact had twice remarried. She also invoked the above quoted procedural rule.[11] To this, petitioner replied that Arturo was a Filipino and as such remained legally married to her in spite of the divorce they obtained.[12] Reading between the lines, the implication is that petitioner was no longer a Filipino citizen at the time of her divorce from Arturo. This should have prompted the trial court to conduct a hearing to establish her citizenship. The purpose of a hearing is to ascertain the truth of the matters in issue with the aid of documentary and testimonial evidence as well as the arguments of the parties either supporting or opposing the evidence. Instead, the lower court perfunctorily settled her claim in her favor by merely applying the ruling in *Tenchavez v. Escaño.*

Then in private respondent's motion to set aside and/or reconsider the lower court's decision she stressed that the citizenship of petitioner was relevant in the light of the ruling in *Van Dorn v. Romillo Jr.*[13] that *aliens may obtain divorces abroad, which may be recognized in the Philippines, provided they are valid according to their national law.* She prayed therefore that the case be set for hearing.[14] Petitioner opposed the motion but failed to squarely address the issue on her citizenship.[15] The trial court did not grant private respondent's prayer for a hearing but proceeded to resolve her motion with the finding that both petitioner and Arturo were "Filipino citizens and were married in the Philippines."[16] It maintained that their divorce obtained in 1954 in San Francisco, California, U.S.A., was not valid in Philippine jurisdiction. We deduce that the finding on their citizenship pertained solely to the time of their marriage as the trial court was not supplied with a basis to determine petitioner's citizenship at the time of their divorce. The doubt persisted as to whether she was still a Filipino citizen when their divorce was decreed. The trial court must have overlooked the materiality of this aspect. Once proved that she was no longer a Filipino citizen at the time of their divorce, *Van Dorn* would become applicable and petitioner could very well lose her right to inherit from Arturo.

Respondent again raised in her appeal the issue on petitioner's citizenship;[17] it did not merit enlightenment however from petitioner.[18] In the present proceeding, petitioner's citizenship is brought anew to the fore by private respondent. She even furnishes the Court with the transcript of stenographic notes taken on 5 May 1995 during the hearing for the reconstitution of the original of a certain transfer certificate title as well as the issuance of new owner's duplicate copy thereof before another trial court. When asked whether she was an American citizen petitioner answered that she was since 1954.[19] Significantly, the decree of divorce of