

FIRST DIVISION

[G.R. No. 124371, November 23, 2000]

**PAULA T. LLORENTE, PETITIONER, VS. COURT OF APPEALS AND
ALICIA F. LLORENTE, RESPONDENTS.**

DECISION

PARDO, J.:

The Case

The case raises a conflict of laws issue.

What is before us is an appeal from the decision of the Court of Appeals^[1] modifying that of the Regional Trial Court, Camarines Sur, Branch 35, Iriga City^[2] declaring respondent Alicia F. Llorente (hereinafter referred to as "Alicia"), as co-owners of whatever property she and the deceased Lorenzo N. Llorente (hereinafter referred to as "Lorenzo") may have acquired during the twenty-five (25) years that they lived together as husband and wife.

The Facts

The deceased Lorenzo N. Llorente was an enlisted serviceman of the United States Navy from March 10, 1927 to September 30, 1957.^[3]

On February 22, 1937, Lorenzo and petitioner Paula Llorente (hereinafter referred to as "Paula") were married before a parish priest, Roman Catholic Church, in Nabua, Camarines Sur.^[4]

Before the outbreak of the Pacific War, Lorenzo departed for the United States and Paula stayed in the conjugal home in barrio Antipolo, Nabua, Camarines Sur.^[5]

On November 30, 1943, Lorenzo was admitted to United States citizenship and Certificate of Naturalization No. 5579816 was issued in his favor by the United States District Court, Southern District of New York.^[6]

Upon the liberation of the Philippines by the American Forces in 1945, Lorenzo was granted an accrued leave by the U. S. Navy, to visit his wife and he visited the Philippines.^[7] He discovered that his wife Paula was pregnant and was "living in" and having an adulterous relationship with his brother, Ceferino Llorente.^[8]

On December 4, 1945, Paula gave birth to a boy registered in the Office of the Registrar of Nabua as "Crisologo Llorente," with the certificate stating that the child was not legitimate and the line for the father's name was left blank.^[9]

Lorenzo refused to forgive Paula and live with her. In fact, on February 2, 1946, the couple drew a written agreement to the effect that (1) all the family allowances allotted by the United States Navy as part of Lorenzo's salary and all other obligations for Paula's daily maintenance and support would be suspended; (2) they would dissolve their marital union in accordance with judicial proceedings; (3) they would make a separate agreement regarding their conjugal property acquired during their marital life; and (4) Lorenzo would not prosecute Paula for her adulterous act since she voluntarily admitted her fault and agreed to separate from Lorenzo peacefully. The agreement was signed by both Lorenzo and Paula and was witnessed by Paula's father and stepmother. The agreement was notarized by Notary Public Pedro Osabel.^[10]

Lorenzo returned to the United States and on November 16, 1951 filed for divorce with the Superior Court of the State of California in and for the County of San Diego. Paula was represented by counsel, John Riley, and actively participated in the proceedings. On November 27, 1951, the Superior Court of the State of California, for the County of San Diego found all factual allegations to be true and issued an interlocutory judgment of divorce.^[11]

On December 4, 1952, the divorce decree became final.^[12]

In the meantime, Lorenzo returned to the Philippines.

On January 16, 1958, Lorenzo married Alicia F. Llorente in Manila.^[13] Apparently, Alicia had no knowledge of the first marriage even if they resided in the same town as Paula, who did not oppose the marriage or cohabitation.^[14]

From 1958 to 1985, Lorenzo and Alicia lived together as husband and wife.^[15] Their twenty-five (25) year union produced three children, Raul, Luz and Beverly, all surnamed Llorente.^[16]

On March 13, 1981, Lorenzo executed a Last Will and Testament. The will was notarized by Notary Public Salvador M. Occiano, duly signed by Lorenzo with attesting witnesses Francisco Hugo, Francisco Neibres and Tito Trajano. In the will, Lorenzo bequeathed all his property to Alicia and their three children, to wit:

"(1) I give and bequeath to my wife ALICIA R. FORTUNO exclusively my residential house and lot, located at San Francisco, Nabua, Camarines Sur, Philippines, including ALL the personal properties and other movables or belongings that may be found or existing therein;

"(2) I give and bequeath exclusively to my wife Alicia R. Fortunio

and to my children, Raul F. Llorente, Luz F. Llorente and Beverly F. Llorente, in equal shares, all my real properties whatsoever and wheresoever located, specifically my real properties located at Barangay Aro-Aldao, Nabua, Camarines Sur; Barangay Paloyon, Nabua, Camarines Sur; Barangay Baras, Sitio Puga, Nabua, Camarines Sur; and Barangay Paloyon, Sitio Nalilidong, Nabua, Camarines Sur;

"(3) I likewise give and bequeath exclusively unto my wife Alicia R. Fortuno and unto my children, Raul F. Llorente, Luz F. Llorente and Beverly F. Llorente, in equal shares, my real properties located in Quezon City Philippines, and covered by Transfer Certificate of Title No. 188652; and my lands in Antipolo, Rizal, Philippines, covered by Transfer Certificate of Title Nos. 124196 and 165188, both of the Registry of Deeds of the province of Rizal, Philippines;

"(4) That their respective shares in the above-mentioned properties, whether real or personal properties, shall not be disposed of, ceded, sold and conveyed to any other persons, but could only be sold, ceded, conveyed and disposed of by and among themselves;

"(5) I designate my wife ALICIA R. FORTUNO to be the sole executor of this my Last Will and Testament, and in her default or incapacity of the latter to act, any of my children in the order of age, if of age;

"(6) I hereby direct that the executor named herein or her lawful substitute should served (*sic*) without bond;

"(7) I hereby revoke any and all my other wills, codicils, or testamentary dispositions heretofore executed, signed, or published, by me;

"(8) It is my final wish and desire that if I die, no relatives of mine in any degree in the Llorente's Side should ever bother and disturb in any manner whatsoever my wife Alicia R. Fortunato and my children with respect to any real or personal properties I gave and bequeathed respectively to each one of them by virtue of this Last Will and Testament."^[17]

On December 14, 1983, Lorenzo filed with the Regional Trial Court, Iriga, Camarines Sur, a petition for the probate and allowance of his last will and testament wherein Lorenzo moved that Alicia be appointed Special Administratrix of his estate.^[18]

On January 18, 1984, the trial court denied the motion for the reason that the testator

Lorenzo was still alive.^[19]

On January 24, 1984, finding that the will was duly executed, the trial court admitted the will to probate.^[20]

On June 11, 1985, before the proceedings could be terminated, Lorenzo died.^[21]

On September 4, 1985, Paula filed with the same court a petition^[22] for letters of administration over Lorenzo's estate in her favor. Paula contended (1) that she was Lorenzo's surviving spouse, (2) that the various property were acquired during their marriage, (3) that Lorenzo's will disposed of all his property in favor of Alicia and her children, encroaching on her legitime and 1/2 share in the conjugal property.^[23]

On December 13, 1985, Alicia filed in the testate proceeding (Sp. Proc. No. IR-755), a petition for the issuance of letters testamentary.^[24]

On October 14, 1985, without terminating the testate proceedings, the trial court gave due course to Paula's petition in Sp. Proc. No. IR-888.^[25]

On November 6, 13 and 20, 1985, the order was published in the newspaper "Bicol Star".^[26]

On May 18, 1987, the Regional Trial Court issued a joint decision, thus:

"Wherefore, considering that this court has so found that the divorce decree granted to the late Lorenzo Llorente is void and inapplicable in the Philippines, therefore the marriage he contracted with Alicia Fortunato on January 16, 1958 at Manila is likewise void. This being so the petition of Alicia F. Llorente for the issuance of letters testamentary is denied. Likewise, she is not entitled to receive any share from the estate even if the will especially said so her relationship with Lorenzo having gained the status of paramour which is under Art. 739 (1).

"On the other hand, the court finds the petition of Paula Titular Llorente, meritorious, and so declares the intrinsic disposition of the will of Lorenzo Llorente dated March 13, 1981 as void and declares her entitled as conjugal partner and entitled to one-half of their conjugal properties, and as primary compulsory heir, Paula T. Llorente is also entitled to one-third of the estate and then one-third should go to the illegitimate children, Raul, Luz and Beverly, all surname (*sic*) Llorente, for them to partition in equal shares and also entitled to the remaining free portion in equal shares.

"Petitioner, Paula Llorente is appointed legal administrator of the

estate of the deceased, Lorenzo Llorente. As such let the corresponding letters of administration issue in her favor upon her filing a bond in the amount (*sic*) of P100,000.00 conditioned for her to make a return to the court within three (3) months a true and complete inventory of all goods, chattels, rights, and credits, and estate which shall at any time come to her possession or to the possession of any other person for her, and from the proceeds to pay and discharge all debts, legacies and charges on the same, or such dividends thereon as shall be decreed or required by this court; to render a true and just account of her administration to the court within one (1) year, and at any other time when required by the court and to perform all orders of this court by her to be performed.

"On the other matters prayed for in respective petitions for want of evidence could not be granted.

"SO ORDERED."^[27]

In time, Alicia filed with the trial court a motion for reconsideration of the aforementioned decision.^[28]

On September 14, 1987, the trial court denied Alicia's motion for reconsideration but modified its earlier decision, stating that Raul and Luz Llorente are not children "legitimate or otherwise" of Lorenzo since they were not legally adopted by him.^[29] Amending its decision of May 18, 1987, the trial court declared Beverly Llorente as the only illegitimate child of Lorenzo, entitling her to one-third (1/3) of the estate and one-third (1/3) of the free portion of the estate.^[30]

On September 28, 1987, respondent appealed to the Court of Appeals.^[31]

On July 31, 1995, the Court of Appeals promulgated its decision, affirming with modification the decision of the trial court in this wise:

"WHEREFORE, the decision appealed from is hereby AFFIRMED with the MODIFICATION that Alicia is declared as co-owner of whatever properties she and the deceased may have acquired during the twenty-five (25) years of cohabitation.

"SO ORDERED."^[32]

On August 25, 1995, petitioner filed with the Court of Appeals a motion for reconsideration of the decision.^[33]

On March 21, 1996, the Court of Appeals,^[34] denied the motion for lack of merit.

Hence, this petition.^[35]

The Issue

Stripping the petition of its legalese and sorting through the various arguments raised,^[36] the issue is simple. Who are entitled to inherit from the late Lorenzo N. Llorente?

We do not agree with the decision of the Court of Appeals. We remand the case to the trial court for ruling on the intrinsic validity of the will of the deceased.

The Applicable Law

The fact that the late Lorenzo N. Llorente became an American citizen long before and at the time of: (1) his divorce from Paula; (2) marriage to Alicia; (3) execution of his will; and (4) death, is duly established, admitted and undisputed.

Thus, as a rule, issues arising from these incidents are necessarily governed by foreign law.

The Civil Code clearly provides:

"Art. 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are **binding upon citizens of the Philippines**, even though living abroad.

"Art. 16. Real property as well as personal property is subject to the law of the country where it is situated.

"However, intestate and testamentary succession, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, **shall be regulated by the national law of the person whose succession is under consideration**, whatever may be the nature of the property and regardless of the country wherein said property may be found." (*emphasis ours*)

True, foreign laws do not prove themselves in our jurisdiction and our courts are not authorized to take judicial notice of them. Like any other fact, they must be alleged and proved.^[37]

While the substance of the foreign law was pleaded, the Court of Appeals did not admit the foreign law. The Court of Appeals and the trial court called to the fore the *renvoi* doctrine, where the case was "referred back" to the law of the decedent's domicile, in this case, Philippine law.

We note that while the trial court stated that the law of New York was not sufficiently

proven, in the same breath it made the categorical, albeit equally unproven statement that "American law follows the 'domiciliary theory' hence, Philippine law applies when determining the validity of Lorenzo's will."^[38]

First, there is no such thing as one American law. The "national law" indicated in Article 16 of the Civil Code cannot possibly apply to general American law. There is no such law governing the validity of testamentary provisions in the United States. Each State of the union has its own law applicable to its citizens and in force only within the State. It can therefore refer to no other than the law of the State of which the decedent was a resident.^[39] **Second**, there is no showing that the application of the *renvoi* doctrine is called for or required by New York State law.

The trial court held that the will was intrinsically invalid since it contained dispositions in favor of Alice, who in the trial court's opinion was a mere *paramour*. The trial court threw the will out, leaving Alice, and her two children, Raul and Luz, with nothing.

The Court of Appeals also disregarded the will. It declared Alice entitled to one half (1/2) of whatever property she and Lorenzo acquired during their cohabitation, applying Article 144 of the Civil Code of the Philippines.

The hasty application of Philippine law and the complete disregard of the will, already probated as duly executed in accordance with the formalities of Philippine law, is fatal, **especially in light of the factual and legal circumstances here obtaining.**

Validity of the Foreign Divorce

In *Van Dorn v. Romillo, Jr.*^[40] we held that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces, the same being considered contrary to our concept of public policy and morality. In the same case, the Court ruled that *aliens* may obtain divorces abroad, provided they are valid according to their national law.

Citing this landmark case, the Court held in *Quita v. Court of Appeals*,^[41] that once proven that respondent was no longer a Filipino citizen when he obtained the divorce from petitioner, the ruling in *Van Dorn* would become applicable and petitioner could "very well lose her right to inherit" from him.

In *Pilapil v. Ibay-Somera*,^[42] we recognized the divorce obtained by the respondent in his country, the Federal Republic of Germany. There, we stated that divorce and its legal effects may be recognized in the Philippines insofar as respondent is concerned in view of the nationality principle in our civil law on the status of persons.

For failing to apply these doctrines, the decision of the Court of Appeals must be reversed.^[43] We hold that the divorce obtained by Lorenzo H. Llorente from his first wife Paula was valid and recognized in this jurisdiction as a matter of comity. Now, the effects of this divorce (as to the succession to the estate of the decedent) are matters

best left to the determination of the trial court.

Validity of the Will

The Civil Code provides:

"Art. 17. The **forms and solemnities** of contracts, wills, and other public instruments shall be governed by the laws of **the country in which they are executed**.

"When the acts referred to are executed before the diplomatic or consular officials of the Republic of the Philippines in a foreign country, the solemnities established by Philippine laws shall be observed in their execution." (*underscoring ours*)

The clear intent of Lorenzo to bequeath his property to his second wife and children by her is glaringly shown in the will he executed. We do not wish to frustrate his wishes, since he was a foreigner, not covered by our laws on "family rights and duties, status, condition and legal capacity."^[44]

Whether the will is intrinsically valid and who shall inherit from Lorenzo are issues best proved by foreign law which must be pleaded and proved. Whether the will was executed in accordance with the formalities required is answered by referring to Philippine law. In fact, the will was duly probated.

As a guide however, the trial court should note that whatever public policy or good customs may be involved in our system of legitimes, Congress did not intend to extend the same to the succession of foreign nationals. Congress specifically left the amount of successional rights to the decedent's national law.^[45]

Having thus ruled, we find it unnecessary to pass upon the other issues raised.

The Fallo

WHEREFORE, the petition is **GRANTED**. The decision of the Court of Appeals in CA-G. R. SP No. 17446 promulgated on July 31, 1995 is **SET ASIDE**.

In lieu thereof, the Court **REVERSES** the decision of the Regional Trial Court and **RECOGNIZES** as **VALID** the decree of divorce granted in favor of the deceased Lorenzo N. Llorente by the Superior Court of the State of California in and for the County of San Diego, made final on December 4, 1952.

Further, the Court **REMANDS** the cases to the court of origin for determination of the intrinsic validity of Lorenzo N. Llorente's will and determination of the parties' successional rights allowing proof of foreign law with instructions that the trial court shall proceed with all deliberate dispatch to settle the estate of the deceased within the framework of the Rules of Court.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP. No. 17446, promulgated on July 31, 1995, Lipana-Reyes⁺, J., *ponente*, Torres, Jr. and Hofilena, JJ., concurring.

[2] In Spec. Proc. No. IR-755 (In the Matter of the Probate and Allowance of the Last Will and Testament of Lorenzo N. Llorente, Lorenzo N. Llorente, Petitioner) and Spec. Proc. No. IR-888 (Petition for the Grant of Letters of Administration for the Estate of Lorenzo N. Llorente, Paula T. Llorente, Petitioner), dated May 18, 1987, Judge Esteban B. Abonal, presiding.

[3] Decision, Court of Appeals, *Rollo*, p. 51.

[4] Exh. "B", Trial Court Folder of Exhibits, p. 61.

[5] *Ibid.*

[6] This was issued pursuant to Lorenzo's petition, Petition No. 4708849, filed with the U.S. Court. Exhs. "H" and "H-3" Trial Court Folder of Exhibits, p. 157, 159.

[7] Decision, Court of Appeals, *Rollo*, p. 51; Exh. "B", Trial Court Folder of Exhibits, p. 61.

[8] *Ibid.*

[9] Exh. "A", Trial Court Folder of Exhibits, p. 60.

[10] Exh. "B-1" Trial Court Folder of Exhibits, p. 62.

[11] Exh. "D", Trial Court Folder of Exhibits, pp. 63-64.

[12] Exh. "E", Trial Court Folder of Exhibits, p. 69.

[13] Exh. "F", Trial Court Folder of Exhibits, p. 148.

[14] Decision, Court of Appeals, *Rollo*, p. 52.

[15] Comment, *Rollo*, p. 147.

[16] Decision, Court of Appeals, *Rollo*, p. 52.

- [17] Exh. "A", Trial Court Folder of Exhibits, pp. 3-4; Decision, Court of Appeals, *Rollo*, p. 52.
- [18] Docketed as Spec. Proc. No. IR-755.
- [19] Decision, RTC, *Rollo*, p. 37.
- [20] *Ibid.*
- [21] *Ibid.*
- [22] Docketed as Spec. Proc. No. IR-888.
- [23] Decision, RTC, *Rollo*, p. 38.
- [24] Decision, Court of Appeals, *Rollo*, p. 52.
- [25] *Ibid.*, pp. 52-53.
- [26] *Ibid.*, p. 53.
- [27] RTC Decision, *Rollo*, p. 37.
- [28] Order, Regional Trial Court in Spec. Proc. Nos. IR-755 and 888, *Rollo*, p. 46.
- [29] Citing Article 335 of the Civil Code, which states, "The following cannot adopt: xxx (3) a married person, without the consent of the other spouse; xxx", the trial court reasoned that since the divorce obtained by Lorenzo did not dissolve his first marriage with Paula, then the adoption of Raul and Luz was void, as Paula did not give her consent to it.
- [30] Order, Regional Trial Court, *Rollo*, p. 47.
- [31] Docketed as CA-G. R. SP No. 17446.
- [32] Decision, Court of Appeals, *Rollo*, p. 56.
- [33] On August 31, 1995, petitioner also filed with this Court a verified complaint against the members of the Special Thirteenth Division, Court of Appeals, Associate Justices Justo P. Torres, Jr., Celia Lipana-Reyes + and Hector Hofilena for "gross ignorance of the law, manifest incompetence and extreme bias (Rollo, p. 15)."
- [34] Again with Associate Justice Celia Lipana-Reyes⁺, *ponente*, concurred in by

Associate Justices Justo P. Torres, Jr. and Hector Hofileña (Former Special Thirteenth Division).

[35] Filed on May 10, 1996, *Rollo*, pp. 9-36.

[36] Petitioner alleges (1) That the Court of Appeals lost its jurisdiction over the case when it issued the resolution denying the motion for reconsideration; (2) That Art. 144 of the Civil Code has been repealed by Arts. 253 and 147 of the Family Code and (3) That Alicia and her children are not entitled to any share in the estate of the deceased (*Rollo*, p. 19).

[37] *Collector of Internal Revenue v. Fisher*, 110 Phil. 686 (1961).

[38] Joint Record on Appeal, p. 255; *Rollo*, p. 40.

[39] *In Re: Estate of Edward Christensen, Aznar v. Helen Garcia*, 117 Phil. 96 (1963).

[40] 139 SCRA 139 (1985).

[41] 300 SCRA 406 (1998).

[42] 174 SCRA 653 (1989).

[43] The ruling in the case of *Tenchavez v. Escano* (122 Phil. 752 [1965]) that provides that "a foreign divorce between Filipino citizens sought and decreed after the effectivity of the present civil code is not entitled to recognition as valid in this jurisdiction" is NOT applicable in the case at bar as Lorenzo was no longer a Filipino citizen when he obtained the divorce.

[44] Article 15, Civil Code provides "Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad." (*Underscoring ours*)

[45] *Bellis v. Bellis*, 126 Phil. 726 (1967).



Source: Supreme Court E-Library

This page was dynamically generated by the E-Library Content Management System (E-LibCMS)