

FIRST DIVISION

[G.R. No. 196499, November 28, 2018]

**INGRID V. HILARIO, PETITIONER, VS. THELMA V. MIRANDA AND
IRENEA BELLOC, RESPONDENTS.**

D E C I S I O N

JARDELEZA, J.:

This is a petition for review on *certiorari*^[1] assailing the October 13, 2009 Decision^[2] and April 4, 2011 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 01703. The assailed Decision reversed and set aside the January 25, 2006 Decision^[4] of Branch 26 of the Regional Trial Court, Argao, Cebu (RTC) in Special Proceeding (SP) Nos. A-522 and A-523, and declared respondent Irene Belloc (Irene) as sole heir of Antonio Belloc (Antonio) and Dolores Retiza (Dolores).^[5] The assailed Resolution, on the other hand, denied petitioner's motion for reconsideration of the assailed Decision, ordered petitioner to surrender the letters of administration issued in her favor and render an account within 30 days from notice, and issued new letters of administration in favor of Ramon Belloc, Jr., the legal representative of Irene's estate.^[6]

Petitioner Ingrid V. Hilario (Ingrid) filed two petitions^[7] for the issuance of letters of administration with urgent application for appointment of a special administratrix, both dated June 22, 2001, involving the properties of Antonio and Dolores, respectively. The petitions, docketed as SP Nos. A-522 and A-523, contained similar allegations except for the names of the decedents. Pertinently, they alleged that Ingrid is the daughter of Magdalena Varian (Magdalena), who, in turn, is the heir of Antonio and Dolores, who both died intestate and left real properties located in Sibonga, Cebu. Petitioner prayed for her appointment as special administratrix of the properties of the decedents, and to be issued letters of administration after notice, publication, and hearing, pursuant to the Rules of Court.

Ingrid anchored the filing of the said petitions on the May 31, 2000 Decision^[8] rendered by the same RTC in Civil Case No. AV-929 filed by Magdalena against respondent Thelma Varian-Miranda (Thelma) and Santiago Miranda (Miranda spouses). The case sought the declaration of nullity of five deeds of sale involving Dolores' properties, allegedly executed by either all of Magdalena, Dolores, Silveria Retiza, and Teresito Belloc, or Dolores alone, in favor of the Miranda spouses, which deeds Magdalena claimed were simulated or fictitious.^[9]

The RTC made the following pronouncements in the said May 31, 2000 Decision:

The evidence on record disclosed that plaintiff Magdalena Varian is an illegitimate daughter of the deceased Antonio Belloc with Balbina dela Cruz. Aside from the plaintiff Magdalena Varian, the deceased Antonio

Belloc has another illegitimate child named Dolores Retiza whose mother is Silveria Retiza and another illegitimate child Alberto whose mother is a certain Hipolita, whose surname probably is Flarnor. This child Alberto, predeceased the deceased Antonio Belloc and is survived by his only son, x x x named Teresita Flamor, x x x. Antonio Belloc x x x died on August 20, 1974 at 4:25 P.M. in Cebu City at Cebu Community Hospital while Dolores Retiza and her mother Silveria Retiza died sometime in 1995 and on December 30, 1994, respectively.^[10]

x x x x

With respect to defendants' claim or assertion, to the effect that the deceased Antonio Belloc was, during his lifetime, married to his live-in partner Silveria Retiza on August 20, 1974 as shown in a marriage contract presented by the defendants x x x, the same does not inspire acceptance upon the mind of the court. While the marriage contract between the deceased Antonio Belloc and Silveria Retiza shown by the defendants during the hearing is a public record, that does not standing alone necessarily prove the fact of marriage by and between the deceased Antonio Belloc and his live-in partner Silveria Retiza, because the circumstances and facts of their alleged marriage appears highly suspicious and seriously doubtful upon the mind of the court with respect to the validity of the alleged marriage for the following reasons, viz:

Evidence on record disclosed, that days before his death on August 20, 1974, Antonio Belloc was already confined in the Cebu Community Hospital in Cebu City. When he was visited by his friend and neighbor, plaintiff's rebuttal witness, Alfredo Bacacao, on August 20, 1974 at about 10:40 A.M., in his death bed, he was not only seriously ill, but was in a comatose condition, could no longer talk and was hovering between life and death or at the point of death so to speak, and in his death bed, was his live-in partner, Silveria Retiza. In the afternoon of the same day, about 4:15 P.M. he expired. Hence, his alleged marriage with his live-in partner is highly doubtful and seriously open to question. There was no iota of evidence in the record, that at anytime during the day, particularly before 10:00 A.M. or thereafter, but before his death in the afternoon, that he was taken out from the hospital and brought to San Nicolas Parish which is very far from the hospital, where the alleged marriage took place and allegedly solemnized by one Rev. Fr. Nicolas Batucan.

Even assuming for the sake of argument, without, however, admitting, that the marriage between deceased Antonio Belloc and his live-in partner Silveria Retiza was done in Articulo Mortis, whether the same took place inside Cebu Community Hospital or in the church of San Nicolas Parish, such marriage could not be considered legally valid for the simple reason that one of the essential elements in valid marriage which is consent, to be freely given, was totally wanting or not present as said Antonio Belloc was then unconscious and under comatose condition and was hovering between life and death. Hence, he cannot give his consent freely. Even again assuming for the sake of argument, without however, admitting, that such marriage in articulo mortis, assuming there was such, the same cannot be considered in evidence as it was not formally.

offered in evidence, although marked during the hearing x x x. In fact, by defendants' acts, either wittingly or unwittingly, they miserably failed to formally offer any documentary evidence as the records clearly show. The non formal offer of evidence by the defendants was fatal to their cause, because evidence when not formally offered, cannot be considered. x x x. (Underscoring in the original.)

x x x x

Under the facts and evidence adverted to above, it is very clear that the deceased Antonio Belloc during his lifetime was never married to Silveria Retiza contrary to the claim of the defendants, and therefore, the conclusion is inevitable, that he died single, survived by his two illegitimate children, plaintiff Magdalena Varian, Dolores Retiza and his grandson Teresito Flamor. Accordingly, he died intestate and his intestate estate will pass on and will be inherited by his intestate heirs upon his death.

With respect to the properties of the deceased Dolores Retiza, subject matter in the different Deeds of Sale, the same likewise should pass on and be inherited by her intestate heirs because at the time of the alleged sale, she was insane and no showing was made by defendants that she executed the supposed sale during lucid interval; in fact, in 1995 she was placed under guardianship because of her incompetency. Evidence disclosed further that at the time of her death sometime in 1995, her only surviving heir is her half-sister, the plaintiff and her nephew, Teresito Flamor who, under the law on intestate succession will be the ones entitled to inherit her properties.^[11]

The dispositive portion of the above Decision in Civil Case No. AV-929 nullified the subject deeds of sale, and among others, declared all the parcels of land subject matter of the deeds to form part of the intestate estate of Antonio and Dolores, which should be inherited by "the latter's intestate heirs, upon proper showing or proof of filiation/paternity."^[12] The Decision became final on May 12, 2001.^[13]

As mentioned, this Decision in Civil Case No. AV-929 became the basis of the filing of SP Nos. A-522 and A-523, which were both raffled to the same branch of the RTC. Ingrid eventually filed a motion for issuance of letters of administration^[14] dated July 2, 2001, alleging that since the appointment of a special administratrix will take time, there will be no one who can receive delivery of the properties of Antonio and Dolores consisting of seven parcels of coconut and com land with an aggregate area of 147,653 square meters which the RTC ordered returned to the estates of the decedents in Civil Case No. AV-929.^[15] On September 10, 2001, after finding that both Antonio and Dolores died without leaving any will and left several properties, and that Ingrid is qualified and entitled to the issuance of letters of administration, the RTC ordered the issuance of letters of administration to Ingrid upon posting of an administrator's bond in the aggregate sum of P100,000.00.^[16] The letters of administration were issued to Ingrid on October 3, 2001.^[17]

On July 31, 2002, Magdalena, notwithstanding the fact that she was not a party to SP Nos. A-522 and A-523, filed an ex-parte motion to be declared sole heir of both

Antonio and Dolores.^[18] This was opposed^[19] by Thelma, Magdalena's other daughter, and one of the defendants in Civil Case No. AV-929. Thelma alleged that Magdalena is not the sole heir of Antonio and that she could not be an heir of Dolores. Purportedly, Antonio begot three children in his lifetime, namely, Magdalena, Dolores, and Alberto Flamor (Alberto). Magdalena and Alberto were illegitimate children of Antonio. Alberto and Dolores are already deceased. Dolores died without issue, but Alberto is survived by his son, Teresito Flamor, who, in turn, is entitled to inherit from the estate of Antonio in representation of his father. Moreover, Thelma asserted that since the status of Dolores was elevated from illegitimate to legitimate child by the subsequent marriage of her mother, Silveria Retiza, with Antonio, Magdalena, an illegitimate child, cannot inherit from Dolores under Article 992^[20] of the Civil Code.

On August 26, 2002, Magdalena filed an amended *ex-parte* motion for declaration as heir of both Antonio and Dolores,^[21] insisting that Antonio did not have any other heir except her and Dolores, and that upon the latter's death, she became the sole heir of her half-sister. Magdalena stated that she did not furnish Thelma a copy of the motion since the latter did not show any legal interest in the estates under administration. She then prayed to be declared an heir (no longer "sole" heir) of Antonio and Dolores.^[22] Magdalena also filed a motion to strike the opposition filed by Thelma,^[23] which the latter subsequently opposed.^[24]

On February 27, 2003, the RTC issued an Order^[25] denying the motion to strike opposition and declaring the need for a trial to determine the lawful heirs of the decedents.

On June 9, 2003, Magdalena died.^[26] Upon their motion,^[27] the following were declared as legal representatives of Magdalena: 1) Violet V. Miller; 2) Joseph Varian, Jr.; 3) Elizabeth V. Tongson; 4) Ingrid V. Hilario; and 5) Lalaine V. Ong.^[28]

On August 25, 2004, Ireneia filed a motion for leave to intervene^[29] and opposition-in-intervention.^[30] She claimed that she is the daughter of Teodoro Belloc (Teodoro) and Eugenia Retiza (Eugenia). Teodoro was the brother of Antonio, while Eugenia was the sister of Silveria, the mother of Dolores. Thus, she is the niece both of Antonio on the father side and Silveria on the mother side of Dolores, and the latter was her first cousin. She claimed that Magdalena cannot inherit from Dolores because she (Magdalena) is not a daughter of Antonio. Even granting that Magdalena is Antonio's illegitimate child, she cannot inherit from Dolores pursuant to Article 992 of the Civil Code because Dolores was a legitimate child. Ireneia also alleged that since she is the nearest surviving relative of both Antonio and Dolores, she is entitled to be appointed as sole administrator of their estate.^[31] The RTC granted the motion for intervention on February 3, 2005.^[32]

After joint trial, the RTC rendered a Decision on January 25, 2006, the dispositive portion of which states:

WHEREFORE, foregoing premises considered, Decision is hereby rendered in favor of the petitioner and against oppositor-intervenor Ireneia Belloc by:

1. Declaring the petitioner Magdalena Varian as heir of decedents Antonio Belloc and Dolores Retiza, to be represented by the following legal representatives: 1) Violet V. Miller; 2) Joseph Varian, Jr.; 3) Elizabeth V. Tongson; 4) Ingrid V. Hilario; 5) Lalaine V. Ong; and 6) Thelma V. Miranda who shall inherit the estate of the said decedents in equal shares; and

2. Denying the claim of intervenor-oppositor Ireneia Belloc for declaration as sole heir of decedents Antonio Belloc and Dolores Retiza, and denying her claim for appointment as administratrix of the estate of the said decedents.

IT IS SO DECIDED.^[33]

The RTC resolved the following issues:

1. Whether or not Magdalena is entitled to be declared heir of decedents Antonio and Dolores; and
2. Whether or not intervenor Ireneia is entitled to be declared **sole** heir of decedents Antonio and Dolores.^[34]

On the first issue, the RTC held that Magdalena had established sufficient proof to be declared an heir of Antonio and Dolores. Magdalena was the daughter of Antonio and Balbina dela Cruz, who were not married to each other, while Dolores was the daughter of Antonio and Silveria. Antonio and Silveria died intestate before Dolores died on January 2, 1995 without children and without a will. Thus, Magdalena, who is Antonio's illegitimate daughter and Dolores' half-sister, is the relative nearest in degree to Antonio and Dolores.^[35]

On the second issue, the RTC did not find that Ireneia can be declared sole heir of Antonio and Dolores on the basis of Article 962 of the Civil Code which provides that "[i]n every inheritance, the relative nearest in degree excludes the more distant ones, saving the right of representation when it properly takes place." Ireneia is the niece of Antonio and the first cousin of Dolores, and thus related to Dolores within the fourth civil degree. Magdalena being the relative nearest in degree to Antonio and Dolores excludes collateral and distant relatives including Ireneia.^[36]

The RTC also ruled on the invalidity of the marriage of Antonio and Silveria. It considered the May 31, 2000 Decision of the RTC in Civil Case No. AV-929 to be well-taken, noting that the Decision had been affirmed by the CA and this Court.^[37] The RTC further noted that Ireneia did not categorically state that she personally witnessed the alleged wedding of Antonio and Silveria. She did not present as witness any of those she mentioned who allegedly attended said wedding, and even rested her case without presenting any documentary evidence. Hence, the RTC found that Ireneia failed to substantiate her claim that Antonio and Silveria were legally married to each other.^[38]

As regards Thelma's opposition, the RTC held that she is one of the heirs of Magdalena, being one of the latter's children.^[39] Thus, Thelma is entitled to a share in the subject properties, equal to the share of one of Magdalena's legal