

SECOND DIVISION

[G.R. No. 191031, October 05, 2015]

**DOLORES L. HACBANG AND BERNARDO J. HACBANG,
PETITIONERS, VS. ATTY. BASILIO H. ALO, RESPONDENT.**

DECISION

BRION, J.:*

This petition for review on *certiorari* seeks to reverse the 13 October 2009 Decision and the 21 January 2010 resolution of the Court of Appeals (CA) in **CA-G.R CV No. 83137**.^[1] The CA affirmed the Quezon City Regional Trial Court's (RTC) dismissal of the petitioners' complaint in **Civil Case No. Q 99-36660**^[2] for lack of cause of action.

ANTECEDENTS

On 3 April 1937, Bishop Sofronio Hacbang (*Bishop Sofronio*) died leaving several properties behind. Among these was Lot No. 8-A of subdivision Plan Psd-6227 located at España Street, San Juan, Rizal,^[3] covered by **Transfer Certificate of Title (TCT) No. (19896) 227644** (*the subject lot*).

Bishop Sofronio was survived by his parents, Basilio and Maria Hacbang, and his siblings: Perfecto Hacbang, Joaquin Hacbang, Lucia Teresita Hacbang, and Dolores Hacbang Alo. Petitioner Dolores L. Hacbang is the grandchild of Perfecto while petitioner Bernardo Hacbang (*Bernardo*) is a son of Joaquin. The respondent Basilio Alo is the son of Dolores.

Bishop Sofronio left a will denominated as *Ultima Voluntad y Testamento*. He left one-half of his properties to his parents and devised the other half - including the subject lot - to his sister Dolores. The pertinent portions of his will read:

FOURTH: By these presents I give, name, declare and institute as heirs my parents BASILIO HACBANG and MARIA GABORNY DE HACBANG of one-half of all my properties, whether real, personal or mixed, in whatever place they may be found, whether they were acquired before or after the execution of this testament, including all the properties that at the time of my death I may have the power to dispose of by will, and which properties consist of the following:

Fifty (50) percent of the shares of stock that I own in the "SAMAR NAVIGATION CO. INC."

A parcel of land with its *camarin* situated in the Municipality of Carigara, Province of Leyte.

A parcel of land in the Barrio of Pinamopuan, of the Municipality of Capoocan, Province of Leyte.

A parcel of land with house and planted to coconuts in the Barrio of Sorsogon, Municipality of Sta. Margarita, Province of Samar.

FIFTH: The other remaining half of my properties wherever they may be located, by these presents I give, cede and hand over to my sister Dolores Hacbang, which properties are more particularly described as follows:

Fifty (50) percent of my stockholdings in the "SAMAR NAVIGATION CO. INC."

A piece of land with one house where the Botica San Antonio is located, in the Municipality of Calbayog, Province of Samar.

A piece of land with house in Acedillo St., Municipality of Calbayog, Province of Samar.

A piece of land with 1 *camarin* in the barrio of Sorsogon, Municipality of Sta. Margarita, Province of Samar.

Six (6) Parcels of land located in "NEW MANILA," Municipality of San Juan, Province of Rizal, in 7th St., described as follows: Block 7, Lots 16, 18, 20 and 22, and in 3rd Street, Block 3, Lots 4 and 6.

A piece of land situated in Espana St., Municipality of San Juan del Monte of the Province of Rizal, marked as Lot 8-A, Block 17, of 1,403 square meters in area.^[4]

On 16 April 1937, a petition for the probate of Bishop Sofronio's will and the settlement of his estate was filed before the then Court of First Instance (*CFI*) of Manila. The petition was docketed as **SP. PROC. No. 51199.**

On 21 May 1937, the CFI admitted Bishop Sofronio's will to probate.^[5]

The records are bare with respect to what happened next. They show, however, that the CFI ordered the proceedings to be archived on 2 November 1957.

On 24 September 1971, the Register of Deeds of Quezon City appears to have issued **TCT No. 169342** over the subject lot in the name of respondent Basilio H. Alo. TCT No. 169342 cancelled TCT No. 117322/T-500. However, this Court cannot determine the circumstances surrounding the issuance of TCT No. 169342 or the relationship between TCT No. 117322/T-500 and TCT No. (19896) 227644 due to the inadequacy of the documents on record.

On 17 March 1975, Dolores Hacbang Alo moved to revive the settlement proceedings because the CFI had not yet completed adjudicating the properties.

On 23 May 1975, the CFI denied the motion for revival because the order to archive "had long become final and executory."^[6]

On 1 February 1999, petitioners Dolores L. Hacbang and Bernardo filed a petition to cancel TCT No. 169342 on the ground that it was fraudulently secured. In support of their allegations, they submitted the 5 March 1997 Investigation Report of Land Registration Authority (LRA) Investigator Rodrigo I. Del Rosario. The report concluded that TCT No. 117322 was of "doubtful authenticity" and was neither derived from TCT No. 117322 nor issued by the Registry of Deeds of Quezon City on 24 September 1971 at 2:30 PM.

In his Answer dated 18 August 1999, Basilio denied all allegations of irregularity and wrongdoing. He also moved to dismiss the petition because the petitioners were neither heirs nor devisees of Bishop Sofronio and had no legal interest in the subject lot.

On 7 January 2003, the RTC dismissed the petition because the petitioners had no right to prosecute the case on the subject lot. The RTC noted that Bishop Sofronio's will had already been admitted into probate in 1937; thus, the intrinsic validity of the will is no longer in question. Though the settlement proceedings were archived, Bishop Sofronio already designated his heirs: Bishop Sofronio's parents were compulsory heirs entitled to half of his estate while the respondent's mother, Dolores Hacbang Alo, was devised the remaining half (the free portion). Thus, the petitioners, who are neither compulsory nor testamentary heirs, are not real parties in interest.

The petitioners moved for reconsideration which the RTC denied on 19 August 2003.

The petitioners appealed to the CA, arguing that: (1) Bishop Sofronio's will did not validly transfer the subject property to Dolores Hacbang Alo; (2) the probate of the will is not conclusive as to the validity of its intrinsic provisions; and (3) only a final decree of distribution of the estate vests title on the properties from the estate on the distributees.^[7] The appeal was docketed as **CA-G.R CV No. 83137**.

They further argued that the distribution of the estate should be governed by intestate succession because: (1) the subject property was not adjudicated; and (2) the settlement proceedings were archived and dismissed. Thus, all the properties passed on to and became part of the estate of Bishop Sofronio's parents. The petitioners concluded that they had legal interest in the subject lot as representatives of their ascendants, the other children of Bishop Sofronio's parents.

In his appeal brief, the respondent insisted that the petitioners do not have a clear legal right to maintain the suit because: (1) as collateral relatives, they cannot invoke the right of representation to the estate of Bishop Sofronio; and (2) they are not real parties in interest and have no right of action over the subject lot.

On 13 October 2009, the CA affirmed the RTC's order of dismissal. The CA held that the admission of Bishop Sofronio's will to probate precluded intestate succession unless the will was intrinsically invalid or failed to completely dispose of his estate. Contrary to the petitioners' contention, the settlement proceedings were not

dismissed but archived; the will did not lose its validity merely because the proceedings were archived. Undoubtedly, Bishop Sofronio did not die intestate.

The CA denied the petitioners' claim to a right of inheritance by representation. It held that the presence of Bishop Sofronio's parents during his death excluded his brothers and sisters from being compulsory heirs; the petitioners cannot represent those who are not entitled to succeed. Considering that they are neither compulsory nor testamentary heirs, petitioners have no legal interest in the subject property.

The petitioners moved for reconsideration which the CA denied on 21 January 2010. The denial paved the way for the petitioners to file the present petition for review on *certiorari*.

THE PETITION

The petitioners argue: (1) that the CA erred when it failed to rule on the validity of TCT No. 169342; (2) that the probate proceedings of the estate was dismissed, not archived; and (3) that the CA erred when it used Bishop Sofronio's will as basis to declare that they are not real parties in interest.

In his Comment, the respondent maintained that the petitioners had no right over the property and moved to dismiss the present petition.

OUR RULING

At the outset, this Court observes that the parties and even the lower courts erroneously applied the provisions of the present Civil Code to the will and the estate of Bishop Sofronio. The law in force at the time of the decedent's death determines the applicable law over the settlement of his estate.^[8] Bishop Sofronio died in 1937 before the enactment of the Civil Code in 1949. Therefore, the correct applicable laws to the settlement of his estate are the 1889 Spanish Civil Code and the 1901 Code of Civil Procedure.

In any case, under both the Spanish Code and our Civil Code, successional rights are vested at the precise moment of the death of the decedent. Section 657 of the Spanish code provides:

Art. 657. Los derechos a la sucesion de una persona se transmiten desde el momento de su muerte.^[9]

The inheritance vests immediately upon the decedent's death without a moment's interruption. This provision was later on translated and adopted as Article 777 of our Civil Code.^[10]

As a consequence of this principle, ownership over the inheritance passes to the heirs at the *precise* moment of death - not at the time the heirs are declared, nor at the time of the partition, nor at the distribution of the properties. There is no interruption between the end of the decedent's ownership and the start of the heir/legatee/devisee's ownership.