

FIRST DIVISION

[G.R. No. 169400, September 12, 2008]

**NAPOLEON G. RAMA, PETITIONER, VS. SPOUSES EDUARDO AND
CONCHITA JOAQUIN, RESPONDENTS.**

R E S O L U T I O N

CORONA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court seeks to set aside the March 29, 2005 decision^[1] and July 28, 2005 resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 77327.

During Lucia Rama Limchiu's (Lucia's) lifetime, she executed a will designating petitioner Napoleon G. Rama as executor. When she died, a large portion of her estate went to her nephew, Jose Limchiu, Jr. (Jose), including the real property subject of this controversy, Lot 3, Block 12 Guadalupe Heights, Cebu City (Guadalupe Heights property). It was eventually sold by Jose to respondent spouses Eduardo and Conchita Joaquin.

The dispute arose when Jose's wife and judicial guardian, Gladys I. Limchiu (Gladys),^[3] filed a complaint in the Regional Trial Court (RTC) of Cebu City, Branch 20 to nullify the deed of absolute sale executed by Jose to respondents. She averred that the assailed deed was forged as Jose did not appear before the notary public to subscribe to the same and that the residence certificate in the notarial acknowledgment was fake.

Petitioner filed a complaint in intervention in his capacity as executor of Lucia's will. He joined Gladys in praying for the nullification of the contentious document on the grounds cited by Gladys and on the additional ground that the sale was in violation of a provision in Lucia's will prohibiting her devisees from disposing of the properties given to them before they reached the age of 30. Jose sold the subject property to respondents when he was only 28 years old.

Respondents filed their answer to the complaint in intervention, alleging, among others, that the said prohibition did not apply to the Guadalupe Heights property.

After trial on the merits, the trial court rendered judgment declaring the sale void. The court *a quo* anchored its decision mainly on petitioner's and Gladys' contention that the contested property came within the purview of the aforementioned prohibition stated in the testatrix's will. The dispositive portion of the decision^[4] read:

WHEREFORE, judgment is hereby rendered:

1. Declaring the Conditional Deed of Sale dated June, 1985 (Exh. "6") and the Deed of Absolute Sale dated October 30, 1991 (Exh. "38") null and void ab initio;
2. Ordering the Register of Deeds of Cebu City to cancel TCT No. 129699 in the name of Eduardo Joaquin, married to Conchita Aviles Joaquin, dated July 20, 1994 (Exh. "5");
3. Declaring the parcel of land (covered by TCT No. 129699) as well as the house constructed thereon (covered by Tax Declaration No. 07080) as the property of the estate of the late Lucia R. Limchiu; [and]
4. Ordering the defendants to pay the plaintiff the sum of P250,000.00 as moral and compensatory damages; the sum of P100,000.00 as exemplary damages; the sum of P100,000.00 as attorney's fees and litigation expenses in the sum of P20,000.00.

SO ORDERED.

On appeal, however, the CA reversed the decision of the trial court:

WHEREFORE, in view of the foregoing premises, the assailed decision of the lower court is hereby REVERSED and SET ASIDE and a new one entered DISMISSING the complaint in Civil Case No. CEB-15453.

SO ORDERED.

Hence, this petition.

The issue before us is simple: was the sale of the contested property valid or void?

Petitioner contends that the CA erred in its decision as the sale was in violation of Lucia's will, which, according to him, expressly prohibited Jose from disposing of his inherited properties before he reached the age of 30.

The petition has no merit.

Preliminarily, it should be noted that the issue before us necessitates an inquiry into the facts. Time and again, we have held that the jurisdiction of this Court in a petition for review on certiorari under Rule 45 is limited only to questions of law, save for certain exceptions, such as when the findings of fact of the RTC and the CA are conflicting.^[5]

In the instant case, as between the conflicting rulings of the RTC and the CA, that of the latter commends itself for adoption as it was more in accord with the evidence on hand and the applicable laws and jurisprudence.

We agree with the CA that Lucia's will indeed contained a provision, found under the third disposition on page 3, prohibiting her heirs from disposing of the properties devised to them before they reached the age of 30:

It is my express will that **the said real properties** shall not be sold and disposed of or encumbered in any manner by the devisees until after they have reach[ed] their respective thirtieth (30th) birthday...

xxx xxx xxx

We also agree with the CA that the prohibition was applicable only to those *real properties listed under the third disposition on pages 1, 2 and 3 of the will*. The use by the testatrix of the phrase "*the said real properties*" showed her intention to prohibit the alienation only of those real properties that she had specifically identified and listed.^[6]

The property in question was not yet part of Lucia's estate at the time of the execution of her will on February 17, 1976 and could not have been among those listed under the third disposition on pages 1, 2 and 3 to be bequeathed in favor of her devisees. Instead, it formed part of her residual estate which carried no such prohibition and whose controlling provision was the fourth disposition of the will stating that:

FOURTH. All the rest, residue and remainder of my estate, which I may own at the time of my death, both real and personal, and of any kind and description wherever the same may be situated, I give, bequeath and devise to my nephew, JOSE LIMCHIU, JR. In the event Jose Limchiu, Jr. shall predecease me then in such eventuality I bequeath and devise the said residue of my estate to my sister Milagros L. Kimseng, or to her children in equal share should she predecease Jose Limchiu, Jr. (Emphasis supplied)

Worthy of note is the fact that the aforementioned fourth disposition did not contain the same prohibition as that so clearly provided for in the third. Thus, it can reasonably be concluded that no prohibition on selling existed with regard to Lucia's residual properties. As the Guadalupe Heights property clearly formed part of her residual estate, there was no prohibition for its alienation by Jose.

Petitioner, however, insists that if the CA's interpretation of the testament is upheld, the intent of the decedent (for her devisees to hold on to their inheritance until they reached 30) will be violated. According to him, there was no sense in prohibiting the alienation of the listed properties under the third disposition, on the one hand, and in allowing the sale of the residual ones under the fourth disposition, on the other.

It is well-settled that in construing the provisions of a will, the intent of the testator is controlling.^[7] In this case, had it been Lucia's intention to prohibit the disposition of *all* her properties (listed and residual alike), she could have easily said so, specially since, as pointed out by petitioner himself, the will itself was replete with limiting provisions allegedly pointing to the inescapable conclusion that she wanted the properties to remain in her heirs' hands until they reached 30.

Indeed, the will did resonate convincingly with said intention, and more. A perusal of the will also reveals that it was specifically tailored to the testatrix's wishes. For instance, the seventh disposition of her will provided: