

## **FIRST DIVISION**

**[ G.R. NO. 151132, June 22, 2006 ]**

### **FIRST BANCORP, INC., PETITIONER, VS. HONORABLE COURT OF APPEALS AND JANE THOMAS LIGHTNER, RESPONDENTS.**

#### **D E C I S I O N**

##### **CALLEJO, SR., J.:**

The First Bancorp, Inc. (Bancorp for brevity) is the registered owner of a parcel of land located in Alabang, Muntinlupa covered by Transfer Certificate of Title No. 201126 issued by the Registry of Deeds on May 19, 1995.<sup>[1]</sup>

On October 10, 1997, Jane Thomas Lightner, an American citizen who resided in California, U.S.A., filed a Complaint against Bancorp with the Regional Trial Court (RTC) of Muntinlupa City with the following allegations:

1. Plaintiff is of legal age, widowed, American citizen, and a resident of California, United States. She may be served with process in this case through undersigned counsel.
2. Defendant is a corporation created under the laws of the Philippines with address at c/o Carpio Villaraza & Cruz, 5<sup>th</sup> Floor, LTA Building, 118 Perea Street, Legaspi Village, Makati City, Metro Manila, where it may be served with processes of the Honorable Court.
  - 2.1. According to defendant's General Information Sheet dated 23 September 1997 filed with the Securities and Exchange Commission, the corporate officers of defendant who may be served with the summons in behalf of defendant are:

Atty. F. Arthur L. Villaraza - Chairman/President  
Atty. Rafael Antonio M. Santos - Director  
Atty. Jose M. Jose - Director/Corporate Secretary  
Atty. Augusto A. San Pedro, Jr. - Director  
Atty. Alejandro Alfonso E. Navarro - Director  
Venus C. Catacutan - Treasurer

A copy of defendant's General Information Sheet dated 23 September 1997 is attached hereto as Annex "A."

3. Plaintiff is the widow of Donald Clifford Lightner, Jr., an American citizen who passed away in Hongkong on 29 June 1997. They were married on 24 April 1977 in the United States.
  - 3.1. Plaintiff and Donald C. Lightner, Jr. never obtained a

valid decree of divorce, legal separation, separation of properties, or dissolution of the conjugal partnership.

4. Defendant is the registered owner of a parcel of land and house and other improvements with address at 144 San Juanico Street, Ayala Alabang Village, Muntinlupa, Metro Manila, covered by Transfer Certificate of Title No. 201126 of the Register of Deeds of the City of Makati, hereinafter referred to as the "Property."
5. Notwithstanding the fact that title to the Property is registered in the name of defendant, the Property in actuality belongs to the estate of Donald C. Lightner, Jr. and plaintiff jointly.
  - 5.1. The Property was acquired with conjugal or community funds and therefore is a conjugal or community asset.
  - 5.2. The Property was used exclusively as the primary residence of Donald C. Lightner, Jr. and his mistress Aida Villaluz until his death. Ms. Villaluz continues to reside on the Property.
6. In an attempt to divest and defraud plaintiff out of her 50% undivided interest in the Property (or in the conjugal/community funds used to acquire the Property) as well as her compulsory inheritance from his estate's 50% undivided interest therein, Donald C. Lightner, Jr. caused the title to the Property to be registered in the name of defendant.
  - 6.1. Defendant is apparently only a holding corporation owned by nominees. All of its stockholders, directors and officers are lawyers and, in the case of Venus C. Catacutan, an accounting staff person of the law firm of Carpio, Villaraza & Cruz. The total capitalization of defendant is only P100,000 as of 23 September 1997, so it could not have purchased the Property (see Annex "A").<sup>[2]</sup>

She prayed that, after due proceedings, judgment be rendered in her favor, as follows:

WHEREFORE, it is respectfully prayed that judgment be rendered declaring that defendant holds a 50% undivided interest in the property as trustee and in trust for the benefit of plaintiff.

Other relief just and equitable in the premises are also prayed for.<sup>[3]</sup>

Bancorp filed a Motion to Dismiss the complaint on the following grounds:

# I

THE COMPLAINT STATES NO CAUSE OF ACTION FOR THE DECLARATION OF PLAINTIFF'S ALLEGED FIFTY PERCENT UNDIVIDED INTEREST OVER

THE SUBJECT PROPERTY CONSIDERING THAT, UNDER THE CONSTITUTION, PLAINTIFF, WHO IS AN AMERICAN CITIZEN, CANNOT OWN REAL PROPERTY IN THE PHILIPPINES.

II

A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM ASSERTED IN THE COMPLAINT HAS NOT BEEN COMPLIED WITH CONSIDERING THAT THE ALLEGED CONJUGAL PARTNERSHIP HAS NOT YET BEEN LIQUIDATED IN THE PROPERTY ESTATE PROCEEDINGS.

III

THE HONORABLE COURT HAS NOT ACQUIRED JURISDICTION OVER THE DEFENDANT CONSIDERING THAT THE SUMMONS IN THE INSTANT CASE WERE IMPROPERLY SERVED.

IV

THE HONORABLE COURT HAS NOT ACQUIRED JURISDICTION OVER THE INSTANT CASE CONSIDERING THAT PLAINTIFF FAILED TO ALLEGE THE VALUE OF THE REAL PROPERTY INVOLVED IN THE INSTANT REAL ACTION AND FAILED TO PAY THE PROPER DOCKET FEES.<sup>[4]</sup>

Lightner opposed the motion, contending that she had paid the requisite docket fees. Contrary to the allegation of the defendant, her action was not a real action; hence, she need not allege the assessed value of the property. In any event, even if the amount she paid as docket fees was insufficient, she should be allowed a reasonable time to pay the deficiency. She further claimed that the liquidation of their conjugal partnership properties is not a condition precedent to the filing of her complaint because her action is against defendant, a third party who is an outsider to her husband's estate. Moreover, her claimed right to a declaration of a constructive trust in her favor to enable her to sell her 50% conjugal partnership share in the proceeds of the sale is not a violation of the Constitution. She pointed out that when a favorable judgment is rendered in her favor, she would still be compelled to sell the property to a qualified Filipino. Thus, the court's mere declaration of Bancorp as trustee is not prohibited by the Constitution. She further alleged that Bancorp was estopped from raising such a defense against her based on the doctrine of *pari delicto*.

On January 20, 1996, the RTC issued an Order denying the motion of Bancorp,<sup>[5]</sup> prompting it to file a motion for reconsideration<sup>[6]</sup> on the following grounds:

I

WITH DUE RESPECT, THE PERFUNCTORY DENIAL OF DEFENDANT'S MOTION TO DISMISS IN THE ORDER DATED 20 JANUARY 1998 VIOLATES SECTION 3, RULE 16 OF THE 1997 REVISED RULES OF CIVIL PROCEDURE AS IT FAILED TO STATE CLEARLY AND DISTINCTLY THE REASONS THEREFOR.

II

WITH DUE RESPECT, THE ORDER DATED 20 JANUARY 1998 DEPRIVED DEFENDANT OF DUE PROCESS CONSIDERING THAT ITS RIGHT TO FILE A REPLY TO PLAINTIFF'S OPPOSITION DATED 14 JANUARY 1998 WHICH WAS GRANTED TO DEFENDANT IN A PREVIOUS ORDER DATED 05

DECEMBER 1997 WAS ARBITRARILY CURTAILED.

### III

WITH DUE RESPECT, THE HONORABLE COURT SHOULD RECONSIDER AND SET ASIDE THE ORDER DATED 20 JANUARY 1998 AND INSTEAD ORDER THE DISMISSAL OF THE INSTANT CASE, CONSIDERING THAT:

- A. THE COMPLAINT STATES NO CAUSE OF ACTION FOR THE DECLARATION OF PLAINTIFF'S ALLEGED FIFTY PERCENT UNDIVIDED INTEREST OVER THE SUBJECT PROPERTY SINCE SUCH A CLAIM BY AN ALIEN IS PROSCRIBED UNDER THE CONSTITUTION.
- B. ASSUMING THAT THE SUBJECT PROPERTY BELONGS TO THE ALLEGED CONJUGAL PARTNERSHIP BETWEEN PLAINTIFF AND THE LATE DONALD C. LIGHTNER, JR., THE LIQUIDATION OF THE ALLEGED CONJUGAL PARTNERSHIP IN THE PROPER ESTATE PROCEEDINGS IS A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM ASSERTED IN THE COMPLAINT.
- C. THE HONORABLE COURT HAS NOT ACQUIRED JURISDICTION OVER THE PERSON OF DEFENDANT SINCE THE SUMMONS IN THE INSTANT CASE WAS IMPROPERLY SERVED.
- D. THE HONORABLE COURT HAS NOT ACQUIRED JURISDICTION OVER THE INSTANT CASE SINCE PLAINTIFF FAILED TO ALLEGE IN HER COMPLAINT THE VALUE OF THE REAL PROPERTY INVOLVED IN THE INSTANT REAL ACTION AND FAILED TO PAY THE PROPER DOCKET FEES AS REQUIRED BY THE RULES OF COURT.<sup>[7]</sup>

Lightner opposed the motion.<sup>[8]</sup> This time, however, the RTC issued an Order on April 14, 1998 granting the motion of Bancorp, and ordered the complaint dismissed. The trial court ratiocinated that:

[a]s a rule, the allegation set forth in the Complaint and not the prayer for relief that determines the nature of the cause of action of the plaintiff.

In the complaint, it is alleged that plaintiff is an American Citizen and that the subject property purportedly belongs to the plaintiff and the estate of the late Donald C. Lightner, Jr. The relief prayed for in the complaint dated 08 October 1997 is premised on an alleged right of ownership being claimed by the plaintiff as a consequence of the alleged acquisition of the Subject Property purportedly using the conjugal funds of the plaintiff and the late Donald C. Lightner, Jr., who are both aliens.

Consequently, it is clear from the allegations in the Complaint that plaintiff traces her alleged right to the Subject Property to an unlawful conveyance which is clearly proscribed under the Constitution.

"Section 7, Article XII of the Constitution categorically provides the following prohibition:

Sec. 7. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire lands of the public domain."

Accordingly, while plaintiff is ostensibly asking for a mere declaration of plaintiff's alleged fifty percent (50%) undivided interest over the Subject Property as stated in the prayer of the Complaint dated 08 October 1997, plaintiff in reality is demanding the declaration of the Subject Property as owned jointly by her and the estate of the late Donald C. Lightner, Jr. which is clearly prohibited under the Constitution.

Plaintiff, who is an alien, cannot even assert a claim for a fifty percent (50%) undivided interest over the Subject Property as her alleged conjugal share.

Plaintiff states that liquidation of the conjugal partnership in the estate proceeding is not a precedent for the filing of the suit.

It has been held that the declaration of a fifty percent (50%) undivided interest over a parcel of land is tantamount to the conferment of absolute title thereto, including the right to dispose and convey title to said property. As held in the case of *Meralco v. Viardo*, 5 SCRA 859-868 (1962):

x x x The other one-half undivided interest of the latter was not in litigation and therefore the trial court correctly held that Pilar Belmonte, as the owner of this undivided one-half interest, had a right to sell it and convey absolute title thereto or to parts thereof. x x x

In the case of *Suyon v. Collantes*, 69 SCRA 514-520 (1976), the Supreme Court ruled that in determining whether a Complaint sufficiently states a cause of action, assuming the truth of the allegations of fact therein, the Honorable Court should first determine whether it could render a valid judgment in accordance with the prayer in the Complaint.

In the instant case, plaintiff prays that she be declared the owner of the fifty percent (50%) undivided interest in the Subject Property. For the Court to render judgment in favor of plaintiff as prayed for in her Complaint, it is enough that the Subject Property be shown to belong to her and the late Donald C. Lightner, Jr. It must also be established that she is qualified under the Constitution and our laws to own or hold the interest she claims in the Subject Property. In the instant case, the very allegations of her Complaint show that she is disqualified, being an alien, from being declared the owner of fifty percent (50%) undivided interest in the Subject Property. For this reason, plaintiff's Complaint clearly states no cause of action.

Plaintiff alleges that the conjugal partnership must be liquidated in an estate proceeding applies only when the suit is filed against the estate for the recovery of a specific asset or property. It does not apply to a suit against a third party who is an outsider to the estate. In this action, plaintiff has sued a third party to declare it as holding title to the property in constructive trust for plaintiff.

Defendant, however, states that, Article 129 of the Family Code (Executive Order 209), the conjugal partnership must first be liquidated