

## EIGHTEENTH DIVISION

[ CA-G.R. CV. NO. 01781, December 14, 2014 ]

**DELIA JAYME, FOR HERSELF AND AS ATTORNEY-IN-FACT OF NENITA JAYME-ZAMORA, PLAINTIFF-APPELLEES, VS. SPOUSES EDUARDO AND LOURDES JAYME LACHICA, PABLO T. JAYME\*, MILAGROS S. DELA CRUZ IN HER CAPACITY AS REGISTRAR OF REGISTER OF DEEDS OF NEGROS OCCIDENTAL, DEFENDANT-APPELLANTS.**

### D E C I S I O N

**INGLES, G. T., J.:**

#### THE CASE

For determination is an appeal<sup>[1]</sup> filed by defendant-appellants Spouses Eduardo and Lourdes Lachica, et al., from the Decision<sup>[2]</sup> of Branch 60, Regional Trial Court of Cadiz City, Negros Occidental where the case was disposed as follows, thus:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

1. Declaring the Deed of Donation (Exh. "F") executed by defendant Pablo T. Jayme in favor of Lourdes Lachica null and void;
2. Declaring the transfer of TCT No. T-45911 (Exh. "A") into two sub-lots under TCT No. T-187589 (Exh. "B") and TCT No. T- 187481 (Exh. "C") by the Register of Deeds, null and void;
3. Declaring TCT No. T-187590 (Exh. "D") registered in the name of Lourdes Lachica null and void;
4. Ordering the Register of Deeds of the Province of Negros Occidental to cancel the titles, bearing No. T-187589 and T- 187590 and re-instate TCT No. T-45911 in the name of Pablo T. Jayme and Maria Andraneda Jayme;
5. Ordering the equal partition of the property covered by TCT No. T-45911 among the legitimate heirs of Spouses Pablo and Maria Jayme, namely: Lourdes Jayme Lachica, Delia A. Jayme, Nenita Jayme Zamora, Marlowe A. Jayme and to the heirs of the late Antonio Jayme represented by his surviving spouse, Teresita J. Polfer and his children;
6. Ordering defendant Lourdes Lachica to pay the plaintiffs the amount of P500,000.00 by way of moral damages, P50,000.00 by way of

attorney's fees; and

7. To pay the cost of suit

SO ORDERED."

Plaintiff-appellees Delia Jayme, et al., filed a complaint, and later was amended, for Annulment of Donation, Annulment of Title and Partition<sup>[3]</sup> docketed as Civil Case No. 647-S with the court *a quo*. It prayed among others that the Deed of Donation<sup>[4]</sup> executed by deceased Pablo T. Jayme, who died last August 1, 2005<sup>[5]</sup>, in favor of Lourdes Lachica be declared void *ab initio* for being inofficious and excessive; declaring the transfer of TCT-T45911<sup>[6]</sup> into two sublots namely TCT No. T-187589<sup>[7]</sup> and TCT No. T-187481<sup>[8]</sup> by the register of deeds, null and void; ordering the annulment of title TCT No. T-187590<sup>[9]</sup> made in favor of Lourdes Jayme Lachica as being null and void and reinstating TCT-T45911 in the name of Pablo Jayme and Maria Andraneda; the partition of the property subject matter of the case of the one-half (½) share of Maria A. Jayme in TCT-T45911 among the legitimate heirs of Spouses Pablo and the late Maria A. Jayme namely, Lourdes Jayme Lachica, Delia A. Jayme, Nenita Jayme Zamora, Marlowe A. Jayme and the late Antonio Jayme represented by his surviving spouse Teresita J. Polfer and his children; and damages in the amount of P500,000.00, attorneys fees in the amount of P50,000.00, appearance fee of P1,500.00 per appearance and P5,000.00 for litigation expenses.

### **THE ANTECEDENT**

The late Pablo T. Jayme and Maria Andraneda Jayme, who got married in the year 1937, purchased a parcel of lot located at Sagay, Negros Occidental which was covered by TCT-T45911. As per TCT-T45911<sup>[10]</sup>, the property was transferred to the spouses on March 9, 1967.

Maria A. Jayme died intestate on October 22, 1993. She was survived by her husband Pablo Jayme and their legitimate children, among whom are appellees Delia Jayme and Nenita J. Zamora and appellant Lourdes J. Lachica.<sup>[11]</sup>

Since the subject property was about to be foreclosed by the bank, Pablo Jayme approached appellee Nenita Zamora and asked the latter to redeem the above-mentioned property.<sup>[12]</sup> With the help of appellee Delia Jayme and their brother Antonio, they pooled their money together and were able to redeem the property and caused the cancellation of the mortgage. The title of the lot was recovered and kept by Delia Jayme.<sup>[13]</sup>

On July 8, 1996, just five (5) days after the appellees and their brother Antonio had retrieved the title from the Rural bank of Sagay, Pablo Jayme allegedly executed an "Affidavit of Loss"<sup>[14]</sup> which claimed that the owner's duplicate copy of TCT-T45911 could no longer be found.<sup>[15]</sup>

On December 17, 1996, defendant-appellant Register of Deeds, on the basis of the Affidavit of Loss executed by Pablo Jayme, issued two (2) certificates of title, splitting the subject parcel of land into "Lot 1-A" and "Lot 1-B" with a corresponding

certificate of title TCT No. T-187589 and TCT No. T-187481 respectively in the name of Pablo Jayme as the sole owner.

Thereafter, by virtue of a Deed of Donation<sup>[16]</sup>, Pablo Jayme transferred ownership over Lot 1-A on April 2, 1997 in favor of the herein appellant Lourdes Jayme Lachica. Consequently, the Register of Deeds issued a new title over the same bearing TCT No. T-187590<sup>[17]</sup> under her name. Simultaneous with the execution of the Deed of Donation, Pablo Jayme likewise executed a "Special Power of Attorney"<sup>[18]</sup> in favor of Lourdes Lachica authorizing her to transact and obtain a loan using Lot 1-B as collateral. Purportedly, as the supposed registered owner of Lot 1-A, she later leased the property to the Mercury Drug Corporation and to the Ocana Photocopying Services.<sup>[19]</sup>

On the other hand, defendant-appellants Sps. Eduardo and Lourdes Lachica, et al., posited that the property subject of the instant case is a separate property of Pablo Jayme; that the subdividing of TCT-T45911 into two sublots: TCT No. T-187589 and TCT No. T-187481 was valid and sanctioned by existing laws; that the donation made by Pablo Jayme to Lourdes Lachica was valid and subsisting. Appellants likewise denied the claim of appellees that the property was conjugal in nature and maintained that it was a separate property of Pablo Jayme.<sup>[20]</sup> He further argued that more than four (4) years had passed from the issuance of the title to Lourdes Jayme Lachica when the complaint was filed against her by the appellees and never in any moment that appellees' names were included as registered owners of the subject properties.<sup>[21]</sup>

The court *a quo* decided the case in favor of plaintiff-appellees; hence, this appeal. Defendant-appellants imputed to the court below the following assigned errors, to wit:

- I. *THE COURT ERRED IN FINDING THAT THE PROPERTY IN QUESTION IS COMMUNITY PROPERTY.*
- II. *THE COURT ERRED IN DECLARING THE TRANSFER OF TCT-T45911 INTO TWO SUBLOTS UNDER TCT NO. 187589 AND TCT NO. T-187481 NULL AND VOID.*
- III. *THE COURT ERRED IN DECLARING THE DEED OF DONATION NULL AND VOID AND IN DECLARING TCT NO. T-187590 REGISTERED IN THE NAME OF LOURDES LACHICA NULL AND VOID.*
- IV. *THE COURT ERRED IN ORDERING THE REGISTER OF DEEDS OF THE PROVINCE OF NEGROS OCCIDENTAL TO CANCEL THE TITLES BEARING TCT NO. 187589 AND TCT NO. T-187590 AND REINSTATE TCT-T45911 IN THE NAME OF PABLO JAYME AND MARIA ANDRANEDA JAYME.*
- V. *THE COURT ERRED IN ORDERING THE EQUAL PARTITION OF THE PROPERTY COVERED BY TCT-T45911 AMONG THE HEIRS OF PABLO AND MARIA JAYME.*

**VI. THE COURT ERRED IN ORDERING DEFENDANT LOURDES LACHICA TO PAY PLAINTIFFS THE AMOUNT OF P500,000.00 AS MORAL DAMAGES, P50,000.00 AS ATTORNEYS FEES AND TO PAY THE COST OF THE SUIT.**

**OUR RULING**

First and foremost, the key issue in this case is whether or not the subject lot is a separate property of the late Pablo Jayme or a conjugal property between him and his spouse Maria Andraneda Jayme. For, if the subject lot was his separate property, it would render the other issues merely academic.

The RTC found that "the property subject matter of the case is actually a conjugal property of defendant Pablo Jayme (now deceased) and the latter's deceased wife, Maria Opao Andraneda Jayme since the said property was acquired and registered in their names on March 9, 1967 (as what governs the property relation of the spouses at that time is the conjugal partnership of gains) during the subsistence of their marriage as both entered into a contract of marriage in 1937 and Maria Opao Andraneda Jayme who died on October 1993 (TSN-Onates, July 14, 2004, pp. 7-8) and this fact of marriage of the parents of the parties are expressly and impliedly admitted by the pleadings."<sup>[22]</sup>

This Court agrees with the RTC's finding that the subject lot is a conjugal property of the late Pablo Jayme and his wife. Article 116 of the Family Code provides that "All property acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one or both spouses, is presumed to be conjugal unless the contrary is proved."<sup>[23]</sup>

For the presumption to arise, it is not, as *Sps. Lita De Leon, et al. vs. Anita B. De Leon, et al.*<sup>[24]</sup> teaches, even necessary to prove that the property was acquired with funds of the partnership. Only proof of acquisition during the marriage is needed to raise the presumption that the property is conjugal. In fact, even when the manner in which the properties were acquired does not appear, the presumption will still apply, and the properties will still be considered conjugal.

In the case at bar, Pablo Jayme and Maria Andraneda Jayme, as admitted by the parties, entered into a contract of marriage in 1937 while the subject property was registered in the name of "Pablo Jayme, married to Maria Andraneda" on March 9, 1967. Thus, TCT-T45911 over the subject lot is presumed conjugal.

Besides, it is well-settled that there must be clear evidence of the exclusive ownership of one of the spouses and the burden of proof rests upon the party asserting it. In this case, as aptly put by the court a quo, not a scintilla of evidence was introduced by the appellants to support their claim. Hence, the land covered by TCT-T45911 is indisputably a conjugal property.

As if to rub salt into the wound, appellants frantically argued in its Brief<sup>[25]</sup> that "granting *arguendo* that the property regime is conjugal partnership of gains, no evidence on record is presented in order for the presumption to apply." Such argument is pointless. Appellants may have forgotten the basic rule, to the point of being elementary, that the presentation of evidence is dispensed with in favor of a

party whose presumption lies. The burden of proof is shifted to the other who wants to overcome such presumption which, in this case, appellants have miserably failed to do.

Appellants further espoused that TCT-T45911 is exclusively owned by Pablo Jayme since the registered name, as appearing in the face of the said title, "PABLO JAYME, married to Maria Andraneda Jayme"<sup>[26]</sup> is no proof that the properties were acquired during the spouses' coverture and are merely descriptive of the marital status of the person indicated therein as enunciated in the case of *Jugalbot vs. Court of Appeals*<sup>[27]</sup>. Appellants also stressed that the name Pablo Jayme is in capital letters indicating that he is the registered owner of the said property and not both Pablo Jayme and Maria Andraneda.

Such contentions are unavailing. For one and as rightly argued by the appellees, "their stance that the property was conjugal was never based on the phrase "married to". Rather, they relied on the fact that Pablo Jayme and Maria Andraneda Jayme were already thirty (30) years married when they bought TCT-T45911, a fact that appellants themselves cannot and do not deny"<sup>[28]</sup> Moreso, it is jurisprudentially well-settled that "the fact that the transfer certificate of title was in the name of one spouse alone did not change the conjugal nature of the property. The mere registration of a property in the name of one spouse does not destroy its conjugal nature. What is material is the time when the property was acquired."<sup>[29]</sup>

Second, taking into account then that the subject lot is a conjugal property of Pablo and Maria Jayme, the splitting of TCT-T45911 made by Pablo Jayme during his lifetime into two sublots namely, TCT No. T-187589 and TCT No. T-187481 under his name is null and void.

Upon Maria Jayme's demise on 1993, Pablo Jayme was supposedly entitled only to one-half ( $\frac{1}{2}$ ) of the said property being his own portion and the other half shall be divided among him and his children *pro indiviso* who are considered by law as compulsory heirs of Maria Jayme. The law pertinent on this matter is Article 888 and 892 of the Civil Code which provides as follows:

"Art. 888. The legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother.

The latter may freely dispose of the remaining half, subject to the rights of illegitimate children and of the surviving spouse as hereinafter provided.

Art. 892. If only one legitimate child or descendant of the deceased survives, the widow or widower shall be entitled to one fourth of the hereditary estate. In case of legal separation, the surviving spouse may inherit if it was the deceased who had given cause for the same.

If there are two or more legitimate children or descendants, the surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children or descendants.