Father tells us in *Summi Pontificatus,* "the prime and most profound root of all evils with which the City is today beset" is a "heedlessness and forgetfulness of the natural law."

This is doubly tragic for a world that is facing, "the crisis of unity." For the supreme fact of this century seems to be that the world, for the first time in history, has become one and is conscious of its unity. No man or nation now can survive in economic or political isolation. Henceforth each one needs everyone else.

The task, therefore, which jurisprudence faces today is vaster and more complex than ever. The problem of reconciling the conflicting claims of authority and liberty, of security and free enterprise, of national sovereignty and international cooperation cannot be solved at its technical periphery, so to speak, in terms purely of methods of procedure, or 'social engineering;' it must be solved at its ethical center, where man confronts the state, and challenges, not the procedure but the very substance of the law, not its 'correctness,' but its justice, which is its sole title to existence. It is here that juridical positivism finds itself without an answer. But it is precisely here that the questions that really matter are asked.

When the Nuremberg Court was asked by what right it could punish the Nazi criminals in defiance of the time-honoured principle, "*nulla poena sine lege,*" juridical positivism itself so to speak, stood on trial for its life, and was found 'guilty,' when the Court rendered judgment in these words: "So far from it being unjust to punish them, it would be unjust if their wrong were allowed to go unpunished." This manner of reasoning, coupled with the rejection by the Court of the defence based on superior orders is a vindication of the validity of natural law jurisprudence, and one more proof of its 'resurrection' in the legal world of today.

CASES NOTED

CIVIL LAW

CONJUGAL PROPERTY; TRANSMISSION AND ACCEPTANCE OF REAL PROPERTY BY GRATUITOUS TITLE CANNOT BE PRESUMED.

FACTS: Clodualdo Vitug contracted marriage with Gervasia Flores, and with whom he begot three children, named Victor, Lucina and Julio, the last leaving the plaintiff Florencia Vitug as the only heir. On second marriage with Donata Montemayor, Clodualdo had eight children, namely Francisca, Jesus, Salvador, Enrique, Prudencia, Anunciacion, Pragmacio and Maximo. During the second marriage Donata Montemayor inherited from her parents some parcels of land valued at ₱9,461.87. By virtue of the industry and efforts of the spouses Clodualdo and Donata, these nipa and mangrove lands were converted into fishponds and subsequently sold to the spouses Simeon Blas and Maxima Santos, and to Teofilo Martinez for the total sum of ₱116,468.37. Deducting the amount of ₱9,461.87, the value of the property inherited by Donata for which she ought to be reimbursed in accordance with Art. 1404 of the old Civil Code, there remained ₱107,006.50. From this sum the spouses bought 22 parcels of land for ₱30,000 and 8 parcels of land for ₱65,000, or a total of ₱95,000 was utilized from the sale of the converted fishponds, thereby leaving a balance of ₱12,006.50.

After the death of Clodualdo, Donata filed the intestate proceedings of the conjugal property, wherein she was appointed ad-

ministratrix. In the inventory she filed, the 30 parcels of land were not included. In the project of partition, there appeared the statement that in order to shorten the proceedings and in order to have an equitable division among the heirs and widow, Donata Montemayor renounced her right to the conjugal property during the marriage in favor of their children and the children by the first marriage, and in the same manner the latter renounced their right to the capital property of their father in favor of the widow, as a result of which both properties,—whether capital property or conjugal property—formed the liquidated property to be divided among twelve heirs, including the widow.

After the hearing on the project of partition, the lower court rendered decision approving the project of partition submitted and closing the administration proceedings.

Not satisfied with the project of partition, the plaintiff Florencia Vitug brought action, claiming 1/12 of the 30 parcels of land not included in the project of partition, and in an amended decision, the lower court held that although the said 30 parcels were purchased with funds belonging to the conjugal partnership, from the conduct of Clodualdo Vitug and Donata Montemayor during their marital life, the inference was that Clodualdo Vitug had the unequivocal intention of transmitting the full ownership of the thirty (30) parcels of land so bought to his wife, Donata, thus considering the one-half of the funds of the conjugal partnership so advanced for the purchase of said parcels as reimbursable to the estate of Clodualdo Vitug on his death. Consequently, the 1/12 share of Florencia Vitug was only one-twelfth of the one-half of the ₱95,000 or ₱4,081.02, which the court awarded to Florencia Vitug.

Not satisfied with the decision, the plaintiff appealed, assigning as errors: (a) the holding that the conduct of Clodualdo Vitug in his life time was that he had the unequivocal intention of transferring the 30 parcels of land to Donata Montemayor, (b) the declaration that the said 30 parcels of land were not conjugal property and should not have been divided in accordance with the project of partition; (c) the declaration that the plaintiff was only entitled to 1/12 of ½ of the purchase price of the said 30 parcels of land, and (d) in not declaring that the plaintiff was entitled to 1/12 of the products of the lands from May 20, 1929, the date of death of Clodualdo Vitug.

HELD: The transmission and acceptance of an immovable property by gratuitous title cannot be presumed. It can only be brought about by a formal public document, and even if Clodualdo Vitug had expressly donated same to his wife, with all the formalities of the law, the donation would be considered inexistent before the eyes of the law, null and void by express prohibition of law (Art. 1334, old Civil Code; *Bough & Bough vs. Cantiveros & Hanopol*, 40 *Jur. Fil.* 452). Hence, Donata Montemayor did not become the owner of all the 30 parcels of land.

In the absence of concrete proof that the conversion of the nipa and mangrove lands into fishponds was only at the expense of Donata, the presumption is that the same was at the cost of the partnership (9 Manresa, 3rd ed., 634) and inasmuch as the conversion was due to the joint efforts of the spouses, the same shall be considered conjugal property. The said 30 parcels of land are also conjugal property for having been acquired during the marital life of the spouses, no matter in whose name the same was registered in the deed of sale or certificate of transfer of title. Likewise, the contention of the appellant that the said 30 parcels of land ought to have been divided in accordance with the project of partition is unfounded because the same, as well as the order approving it, referred only to the properties mentioned in the inventory.

Inasmuch as the 30 parcels of land were conjugal, ½ thereof belong to Donata, and the other half belongs to the heirs, of which the plaintiff is entitled to 1/11 thereof. Likewise, the plaintiff is entitled to receive 1/11 of ½ of the products of the said 30 parcels of land since May 20, 1929, the date of death of Clodualdo Vitug. (*Florencia Vitug vs. Donata Montemayor et al., G. R. No. L*-5297, prom. Oct. 20, 1953.)

LEGAL REDEMPTION; TENDER OF REDEMPTION MONEY NOT CONDITION *SINE QUA NON* TO VALID EXERCISE OF THE RIGHT OF REDEMPTION.

FACTS: Plaintiff Laureana Torio and Julian Raymundo, her husband, were co-owners *pro-indiviso* of a parcel of land, which co-ownership came about when Julian Raymundo transferred to