

**MIGUEL RAÑESES, EUSTAQUIA RAÑESES, MARCIANO RAÑESES,
EUSEBIO ECHANO, PEDRO ECHANO, FAUSTO ORA, CLAUDIO
GALUWA, BONIFACIA CABUGSAN, DELFINA DAYNOS, RUSTICO
CABUGSAN, JOSE YAMIT, ...**

G.R. No. L-26854. March 04, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

The question in this certiorari and prohibition case is whether the Court of First Instance of Misamis Oriental, Cagayan de Oro City Branch IV, acted with grave abuse of discretion in denying petitioners' motion for leave to file a third-party complaint against Romualdo Udalbe in Civil Case No. 19-C. That question has to be resolved under the following facts:

Civil Case No. 2389. - On August 1, 1964 Miguel Rañeses, Eustaquia Rañeses, Marciano Rañeses, Eusebio Echano, Pedro Echano, Fausto Ora, Claudio Galuwa, Nicolas Cagampang, Bonifacia Cabugsan, Rustico Cabugsan, Jose Yamit, Margarita Yamit, Felina Yamit, Juana Yamit, Delfina Daynos, Joaquin Escobido and Eusebia Caldeo (all petitioners herein except Nicolas Cagampang and Felina Yamit), as alleged legal heirs of Martin Yamit, who died intestate on June 20, 1964, sued Romualdo Udalbe for the recovery of the properties supposedly belonging to Martin Yamit's estate.

The properties allegedly consisted of P15,000 cash and eighteen parcels of land located in certain barrios of Mahinog, Camiguin, Misamis Oriental. They alleged that Romualdo Udalbe was in possession of the said properties although he was not an heir of Martin Yamit. The case was docketed as Civil Case No. 2389 of the Court of First Instance of Misamis Oriental.

Romualdo Udalbe in his answer alleged that three of the eighteen parcels of land were donated to him by Yamit; that three other parcels were donated by the spouses, Martin Yamit and Crispina Udalbe, to Asuncion Udalbe; that some parcels of land were paraphernal properties of Crispina Udalbe; that two parcels of land were the separate properties of Martin Yamit with conjugal improvements thereon, and that the rest of the parcels of land were conjugal properties of the Yamit spouses. Romualdo further alleged that, as a nephew, he was an heir of Crispina Udalbe.

The donation relied upon by Romualdo Udalbe was evidenced by a notarized deed of donation mortis causa executed by Udalbe and Yamit on October 4, 1952. It was made in consideration of the love and affection professed by the donor for the donee. It was "to become effective upon the death of the donor". Should the donee predecease the donor, the donated properties would pass to the donee's wife and children.

The other donation mentioned by Romualdo Udalbe in his answer is evidenced by a private writing dated June 17, 1945 executed by the spouses, Martin Yamit and Crispina Udalbe in favor of their niece, Asuncion Udalbe, in the local dialect. It was made in consideration of the services rendered to the spouses by Asuncion Udalbe. It was

stipulated therein that the donee, Asuncion Udalbe, would acquire possession of the lands donated upon the donors' death. The record does not show whether the donee accepted the donation.

Civil Case No. 2389 was not tried on the merits. To terminate the case and "to settle once and for all the estate of the late Martin Yamit" and "all the claims whatsoever" that the parties might have "in the estate of Martin Yamit and Crispina Udalbe", they formalized a compromise agreement which was approved by the lower court in its judgment dated November 14, 1964. In that compromise it was stipulated that the seventeen plaintiffs, were the legal heirs of Martin Yamit and that he left the eighteen parcels of land described in the complaint and a house of mixed materials.

Under that compromise, two parcels of land with areas of 18,309 and 12,062 square meters and the house were assigned to Romualdo Udalbe as his "share of the estate of Martin Yamit", and sixteen parcels of land were conveyed to the seventeen plaintiffs "as their shares in the estate of the deceased Martin Yamit".

That compromise was signed by Romualdo Udalbe and the lawyers of the parties. However, not all of the seventeen plaintiffs signed the agreement. Only five of them signed it. Those five signatories were (1) Marciano Rañeses, (2) Fausto Ora, (3) Jose Yamit who signed for himself and for Bonifacia Cagugan, Margarita Yamit, Claudio Galuwa and Nicolas Cagampang, (4) Joaquin Escobedo who signed for himself and "Eusebia Escobedo", a person not named in the title of the complaint which mentions one Eusebia Caldeo, and (5) Miguel Rañeses who signed for himself, Eusebio Echano and Pedro Echano.

One Tito Abao (not a party) signed the agreement in behalf of his mother, Eustaquia Rañeses. Torquato Rañoa signed it for himself and his mother, Simplicia Yamit, although both of them were not plaintiffs. Felipe Y. Labadan signed for himself and Juana Yamit. Labadan was not a party-plaintiff. The compromise agreement and the decision do not show whether powers of attorney were executed by the plaintiffs who did not sign the agreement and who were allegedly represented by the persons who signed it as their representatives. (See art. 1874, Civil Code).

On the other hand, plaintiffs Delfina Daynos, Rustico Cagugan and Felina Yamit did not sign the compromise agreement and were not represented at all in that transaction.

It is evident that the lower court and the lawyers of the parties did not exercise due care and circumspection in terminating Civil Case No. 2389 by means of the compromise agreement. There seemed to be a hurried effort to compromise the case even without a strict observance of the formalities for signing the agreement. The lower court's use of the stereotyped expression that the compromise was "not contrary to law, morals and public policy" was meaningless since it did not bother to scrutinize the validity and propriety of the stipulations contained in the agreement.

It is the trial court's duty to examine and study the compromise agreement with utmost attention and caution and to assure itself that the stipulations thereof are valid and proper so as to avoid misunderstanding and controversies. A casual or superficial perusal of the compromise agreement should be eschewed. As aptly observed by Mr. Justice Barredo, the trial judge should adopt an "activist attitude" in dealing with compromise settlements. (Hernandez vs. Colayco, L-39800, June 27, 1975, 64 SCRA 480; International Hotel Corporation vs. Asuncion, L-39669, March 10, 1965, 63 SCRA 77).

Romualdo Udalbe's answer should have alerted the lower court to the fact that the eighteen parcels of land in question were not the exclusive properties of Martin Yamit; that they belonged to the estates of the deceased spouses Martin Yamit and Crispina Udalbe; that the heirs of Crispina Udalbe were not parties in Civil Case No. 2389, and that only the heirs of Martin Yamit were the plaintiffs in that case.[*]

In spite of the glaring deficiencies and defects of the compromise agreement, Judge Bernardo Teves approved it. When the petitioners (fifteen of the seventeen plaintiffs) attempted to take possession of the sixteen parcels of land adjudicated to them in the compromise agreement, they were allegedly prevented from doing so "by the aunts, uncles and cousins" of Romualdo Udalbe. Those persons claimed to be the heirs of Crispina Udalbe who died intestate on August 17, 1945.

As the compromise did not bring about the desired objectives, the petitioners on December 15, 1964 filed a motion to set aside the judgment approving it. They alleged that the compromise was based on the assumption that only the petitioners and Romualdo Udalbe were the persons interested in the properties involved in Civil Case No. 2389. They prayed that they be allowed to amend their complaint by impleading as parties the relatives of Crispina Udalbe who had tried to dispossess the petitioners of some of the lands already in their possession.

Judge Teves in his order of December 19, 1964 set aside his decision approving the compromise and directed the plaintiffs (now the petitioners) within two weeks from notice to amend their complaint by including "as party defendants all the relatives of" Romualdo Udalbe who claimed an interest in some of the litigated properties.

However, upon motion for reconsideration filed by Romualdo Udalbe, Judge Teves in his order of January 18, 1965 revoked his order of December 19, 1964 and maintained the judgment approving the compromise. His justification was that the compromise was not vitiated by fraud and mistake and that it had the effect and authority of *res judicata*. The petitioners did not question that order in any appellate proceeding. But the matter did not end there.

Civil Case No. 19-C. - About six months later, or on June 25, 1965 the nine aunts, uncles and cousins of Romualdo Udalbe, namely, Tomas Jala, Fernando Jala, Zosimo Kiunizala, Alfredo Kiunizala, Melosena Kiunizala, Clarita Kiunizala, Lourdes Kiunizala, Anita Acero and Leonora Acero, as the legal heirs of Crispina Udalbe sued in the Court of First Instance of Misamis Oriental the seventeen plaintiffs in Civil Case No. 2389. The case was docketed as Civil Case No. 19-C and was assigned also to Branch IV, the sala of Judge Teves. It was filed by Jesus M. Jajalla, the same lawyer who represented Romualdo Udalbe in Civil Case No. 2389 and who signed the compromise agreement as his counsel.

It was alleged in the new complaint that the spouses Martin Yamit and Crispina Udalbe left ten parcels of land as conjugal assets and that four other parcels of land were the paraphernal properties of Crispina Udalbe. Those fourteen parcels of land were among the eighteen parcels of land involved in Civil Case No. 2389 which were treated as the properties left by Martin Yamit and which were adjudicated to his legal heirs, the seventeen plaintiffs (the defendants in Civil Case No. 19-C), in the compromise agreement. The complaint did not include the two parcels of land which were allotted to Romualdo Udalbe under the compromise agreement, and two other parcels of land covered by Tax Declarations Nos. 11583 and 17203 in the name of Martin Yamit which presumably belonged exclusively to him as his capital.

The nine plaintiffs (now private respondents) alleged that, as heirs of Crispina Udalbe, they were entitled to one-half of the ten parcels of land and to all of her paraphernal properties.

The seventeen defendants (of whom fifteen are now the petitioners herein) alleged in their answer that the fourteen parcels of land in question were the exclusive properties of Martin Yamit which were already adjudicated to them in Civil Case No. 2389, where Romualdo Udalbe was regarded as the sole heir of Crispina Udalbe and, as such, was given two parcels of land and the house of mixed materials belonging to the said spouses. The defendants further alleged that the plaintiffs, who were aware of the pendency of Civil Case No. 2389, confabulated with Romualdo Udalbe to inveigle them (the defendants) into finalizing a compromise agreement with Romualdo Udalbe and then after the compromise was approved by the court, the plaintiffs sought to

double-cross the defendants by means of their complaint for partition which was filed by Romualdo's lawyer.

On June 6, 1966 the petitioners (the defendants in Civil Case No. 19-C) asked the lower court for leave to file a third-party complaint against Romualdo Udalbe on the ground that in Civil Case No. 2389 Udalbe was able, through fraud, to get two parcels of land and a house as his share in the estates of the spouses Martin Yamit and Crispina Udalbe, which estates constitute the subject matter of the partition action in Civil Case No. 19-C. The petitioners contended that no final determination of Civil Case No. 19-C could be had without impleading Romualdo Udalbe as a party.

The petitioners attached to their motion their third-party complaint against Romualdo Udalbe. In that complaint they averred that Udalbe in his answer in Civil Case No. 2389 represented that he was a nephew of Crispina Udalbe, with "successional rights to the properties" involved therein. They further averred that, as a compromise settlement of that case, Romualdo Udalbe was awarded two parcels of land and a house which supposedly formed part of Martin Yamit's estate.

The petitioners also alleged in their third-party complaint that Romualdo Udalbe was in possession of the estates of the spouses Martin Yamit and Crispina Udalbe and that he had appropriated the fruits thereof. The petitioners as third-party plaintiffs prayed that Romualdo Udalbe be required to collate what he had received from the estates of the said spouses and to indemnify the petitioners for whatever the petitioners would be adjudged to pay the plaintiffs (now private respondents) in Civil Case No. 19-C.

The petitioners presented a memorandum in support of their motion for the admission of their third-party complaint. The gist of their argument is that inasmuch as Civil Case No. 19-C refers to the partition of the estates of Martin Yamit and Crispina Udalbe and as Romualdo Udalbe in Civil Case No. 2389 had fraudulently received properties belonging to the decedents, he should be accountable for the said properties.

The plaintiffs (now the private respondents) opposed the motion. They contended that any third-party complaint against Romualdo would nullify the judgment in Civil Case No. 2389 which is *res judicata*. They also contended that the third-party complaint was not warranted under section 12, Rule 6 of the Rules of Court because Udalbe was not liable to the petitioners for contribution, indemnity, subrogation or any other relief in respect to petitioners' claim.

As stated at the outset, Judge Teves in his order of August 15, 1966 denied the motion for leave to file a third-party complaint. He reasoned out that Civil Case No. 2389 was an action for the recovery of the properties donated to Romualdo Udalbe, who was not an heir of Martin Yamit and Crispina Udalbe, and that the judgment in that case had long become final and cannot be reopened because it has the force of *res judicata*. Judge Teves in his order of October 4, 1966 denied petitioners' motion for reconsideration of his prior order.

The instant certiorari case. - On November 21, 1966 the fifteen petitioners, (without including Felina Yamit and Nicolas Cagampang, two of the seventeen defendants in Civil Case No. 19-C) filed the instant certiorari and prohibition case.

The petitioners' stand is that Judge Teves erred in assuming that Romualdo Udalbe participated in the compromise agreement as a donee. They underscore that Romualdo Udalbe was an heir of Crispina Udalbe as alleged in his answer; that in the compromise agreement he was awarded two parcels of land and a house "as his share of the estate of Martin Yamit", when he was not Yamit's heir; that Civil Case No. 19-C is an action to annul a partition that prejudiced the plaintiffs therein (now private respondents), and that that prejudice was caused by the cession to Romualdo Udalbe of certain properties to which he was not entitled because he was not an heir of Martin Yamit.

The petitioners insist that they should be allowed to file a third-party complaint against Romualdo Udalbe. The respondents counter that Judge Teves did not commit any jurisdictional error in not allowing the petitioners to file a third-party complaint against Romualdo Udalbe and that the decision in Civil Case No. 2389, being *res judicata*, bars the admission of the third-party complaint.

We hold that the lower court erred in not allowing the petitioners to file a third-party complaint against Romualdo Udalbe. Although not definitively alleged in their third-party complaint, what the petitioners intended is to annul, on the ground of fraud, the partition or the judgment in Civil Case No. 2389 insofar as Romualdo Udalbe is concerned. The private respondents are aware that that is the object of the complaint in Civil Case No. 19-C. That is why in their memorandum they observe that the admission of the third-party complaint would render nugatory the final judgment in Civil Case No. 2389.

Whether the said judgment should be annulled is one of the issues in Civil Case No. 19-C. That issue cannot be tried without the joinder of Romualdo Udalbe, a beneficiary of that judgment. Civil Case No. 2389 did not settle completely and finally the estates of the spouses Martin Yamit and Crispina Udalbe. There could not have been a complete and final settlement in that case because not all the interested parties were joined therein. The lower court did not bother to find out whether all the parties interested in the decedents' estates had appeared in Civil Case No. 2389. Nor did it ascertain which properties were conjugal, which properties were paraphernal and which properties were the capital or exclusive assets of the husband. The validity of the donation *mortis causa* executed by Martin Yamit in favor of Romualdo Udalbe was not passed upon.

Although the compromise agreement was designed to terminate all the claims against the estates of Martin Yamit and Crispina Udalbe, yet the lawyer of Romualdo Udalbe, who signed that agreement, filed Civil Case No. 19-C against petitioners and thus nullified the purpose of the compromise.

What is even worse is that not all of the petitioners signed the compromise agreement. Those who signed for the others did not exhibit any valid authority to represent their supposed principals. It is not clear whether Romualdo Udalbe received the two parcels of land and the house as a donee (as assumed by the lower court) or as an heir of Crispina Udalbe whose estate was not under litigation in Civil Case No. 2389.

It is in Civil Case No. 19-C that the estate of Martin Yamit and Crispina Udalbe would be settled. It is necessary that all the persons interested in the said estates should be made parties and should be heard. One such person is Romualdo Udalbe who claims to be an heir of his aunt, Crispina Udalbe, and to whom two parcels of land and a house, forming part of the said estates, had already been adjudicated. Romualdo Udalbe is an indispensable party in Civil Case No. 19-C. Without his joinder, no final determination of that case can be effected with justice to all concerned. Private respondents' opposition to his joinder might confirm petitioners' view that there was some sort of collusion between Romualdo Udalbe and the private respondents to defraud the petitioners.

Romualdo Udalbe can be joined as a third-party defendant because the terms "contribution, indemnity, subrogation or any other relief" in section 12, Rule 6 of the Rules of Court are comprehensive enough to cover his situation with respect to the legal heirs who are already parties in Civil Case No. 19-C. Inasmuch as that case embraces the entire estates of the deceased spouses, it is imperative that the properties already assigned to him should be taken into account in the partition and distribution of the said estates. That means that he should be brought in as a party in Civil Case No. 19-C. The plaintiffs could have originally joined him as a defendant (See *Crim vs. Lumbermens Mutual Casualty Co.*, 1 Fed. Rules Service 231, 26 F. Supp. 715).

The ultimate goal is to do justice to all the persons interested in the properties left by the decedents. Under the facts of this case, the dictates of justice demand the joinder of Romualdo Udalbe as a party in Civil Case No. 19-C as well as a reexamination of the validity of the judgment in Civil Case No. 2389.

In not allowing the petitioners to file a third-party complaint against Romualdo Udalbe so that he can be joined as a party in Civil Case No. 19-C, the lower court committed a grave abuse of discretion or a patent injustice.

While this Court will not entertain a petition for certiorari questioning the legality of an interlocutory order, yet when a grave abuse of discretion has been palpably committed, or the broader interests of justice require an exception and petitioners' contention appears to be clearly tenable, then certiorari lies in order that the error may be corrected and the injustice may be redressed (*Manila Electric Company and Sheriff of Quezon City vs. Hon. Enriquez, etc. and Espinosa*, 110 Phil. 499; *Pachoco vs. Tumangday and Fernando*, 108 Phil. 238).

WHEREFORE, the lower court's orders of August 15 and October 4, 1966 are set aside. It is directed to admit petitioners' third-party complaint and to issue summons to Romualdo Udalbe. Costs against the private respondents.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion Jr., JJ., concur.

[*] The validity of the donation mortis causa to Romualdo Udalbe was not passed upon. It should be known by now to the bench and bar since *Bonsato vs. Court of Appeals*, 95 Phil. 481 was decided on July 30, 1954 that the donation mortis causa of the Roman law no longer exists as an independent legal concept in the Civil Code, that it was merged with testamentary dispositions (legacies and devises), and that if a person wants to make a so-called donation mortis causa, he should execute a will and should not label the instrument as a donation mortis causa.

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