

AGNES C. TIU, PETITIONER, VS. REGIONAL TRIAL COURT OF DUMAGUETE CITY, BRANCH 40, SPOUSES WILSON GO AND JEAN THERESA GO, LAUREANA ONG AND BANK OF COMMERCE REPRESENTED BY MARISSA ...

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HERNANDO, J:

Under Rule 47, Section 5, of the Rules of Court, a Petition for Annulment of Judgment may be dismissed if the Court finds no substantial merit in the petition, to wit:

Section 5. Action by the court. — Should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal.

Should prima facie merit be found in the petition, the same shall be given due course and summons shall be served on the respondent.

Here, the Court finds no substantial merit in the petition since petitioner utterly failed to prove the presence of extrinsic fraud practiced on her by private respondents, which prevented her from fully exhibiting her side of the case. Petitioner failed to satisfactorily allege how she was prevented from timely challenging the assailed February 3, 2011 Partial Judgment[1] of the Regional Trial Court, Branch 40, of Dumaguete City.

It bears stressing that the allegation of extrinsic fraud, which petitioner seeks to support her petition, is misplaced. The fear that evidence against petitioner in the hands of the Spouses Wilson and Jean Theresa Go and Laureana Ong would be furnished by the latter to the Bank of Commerce does not constitute the “extrinsic fraud” contemplated by jurisprudence.[2] Moreover, neither does the fact that the lawyer of the Spouses Go and Laureana Ong is the same lawyer who previously represented petitioner when she contested the suspension order meted by the Bank of Commerce against her prove that there was extrinsic fraud as to justify the annulment of the assailed February 3, 2011 Partial Judgment. Verily, the foregoing contentions of petitioner do not constitute extrinsic fraud. To reiterate, fraud is extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured.[3]

Along the same vein, We find that the Partial Judgment sought to be annulled by the petitioner does not adversely affect her rights and interest. The Partial Judgment pertains to the approval by the trial court of the Compromise Agreement[4] executed between the Spouses Go, Laureana Ong and the Bank of Commerce. Concededly, petitioner is not a party to the contract. Evidently, there is no provision therein which would benefit her or establish her liability. Thus, petitioner has not demonstrated any material interest in its fulfillment and, much less, annulment of the Compromise Agreement. The fact that the agreement burdens the Spouses Go and Laureana Ong to assist the Bank of Commerce in the prosecution of the cases against the petitioner, or any other person, does not give rise to her right to seek the annulment of a contract to which she is not a party of. This provision in the contract merely seeks the cooperation of the Spouses Go and Laureana Ong. It does not compel them to falsely testify and fabricate evidence against petitioner. Consequently, it does not prejudice petitioner as much as

she wants this Court to believe.

In any event, granting that petitioner is actually prejudiced by the trial court's approval of the Compromise Agreement, she is not left without other legal remedies available to her. The annulment of the assailed Partial Judgment is not the only remedy available for petitioner. It is worth noting that the approval of the Compromise Agreement simply extinguished the liability of the Bank of Commerce against the Spouses Go and Laureana Ong. It did not ascertain the liability of the petitioner to the respondent bank or to any other party. Thus, petitioner's concern is still premature as she has every opportunity to protect herself from liability or to clear her name.

WHEREFORE, in view of the foregoing, the instant petition is DISMISSED for lack of merit.

SO ORDERED.

Quijano-Padilla, and [*]Lopez, JJ., concur.

[*] 3[rd] Member in lieu of Justice Marie Christine Azcarraga-Jacob per Office Order No. 01-15-GTI.

[1] Penned by Hon. Gerardo A. Paguio, Jr., Rollo, pp. 15-17.

[2] Marcelina Gacutana-Fraile v. Angel T. Domingo, et. al., G.R. No. 138518, December 15, 2000, citing Salonga, et al. v. Court of Appeals, et al., 269 SCRA 534 (1997), Santos v. Court of Appeals, 224 SCRA 673 (1993), Ybañez v. Court of Appeals, 253 SCRA 540 (1996), Sanchez v. Tupas, et al., 158 SCRA 459 (1988) and Velayo v. Shell Company of the Philippines, Ltd., et al., 105 Phil. 1114 (1959).

[3] Lorna Castigador v. Danilo M. Nicolas, G.R. No. 184023, March 4, 2013.

[4] Rollo, pp. 61-63.

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