

ESTATE OF GEORGE LITTON, PETITIONER, VS. CIRIACO B. MENDOZA AND COURT OF APPEALS, RESPONDENTS.

G.R. No. L-49120. June 30, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This petition for review presents two (2) main issues, to wit: (1) Can a plaintiff in a case, who had previously assigned in favor of his creditor his litigated credit in said case, by a deed of assignment which was duly submitted to the court, validly enter into a compromise agreement thereafter releasing the defendant therein from his claim without notice to his assignee? and (2) Will such previous knowledge on the part of the defendant of the assignment made by the plaintiff estop said defendant from invoking said compromise as a ground for dismissal of the action against him?

The present case stemmed from Civil Case No. Q-8303[1] entitled "Alfonso Tan vs. Ciriaco B. Mendoza" an action for the collection of a sum of money representing the value of two (2) checks which plaintiff Tan claims to have been delivered to him by defendant Mendoza, private respondent herein, by way of guaranty with a commission.

The record discloses that the Bernal spouses[2] are engaged in the manufacture of embroidery, garments and cotton materials. Sometime in September 1963, C.B.M. Products,[3] with Mendoza as president, offered to sell to the Bernals textile cotton materials and, for this purpose, Mendoza introduced the Bernals to Alfonso Tan. Thus, the Bernals purchased on credit from Tan some cotton materials worth P80,796.62, payment of which was guaranteed by Mendoza. Thereupon, Tan delivered the said cotton materials to the Bernals. In view of the said arrangement, on November 1963, C.B.M. Products, through Mendoza, asked and received from the Bernals PBTC Check No. 626405 for P80,796.62 dated February 20, 1964 with the understanding that the said check will remain in the possession of Mendoza until the cotton materials are finally manufactured into garments after which time Mendoza will sell the finished products for the Bernals. Meanwhile, the said check matured without having been cashed and Mendoza demanded the issuance of another check[4] in the same amount without a date.

On the other hand, on February 28, 1964, defendant Mendoza issued two (2) PNB checks[5] in favor of Tan in the total amount of P80,796.62. He informed the Bernals of the same and told them that they are indebted to him and asked the latter to sign an instrument whereby Mendoza assigned the said amount to Insular Products Inc. Tan had the two checks issued by Mendoza discounted in a bank. However, the said checks were later returned to Tan with the words stamped "stop payment" which appears to have been ordered by Mendoza for failure of the Bernals to deposit sufficient funds for the check that the Bernals issued in favor of Mendoza.

Hence, as adverted to above, Tan brought an action against Mendoza docketed as Civil Case No. Q-8303[6] while the Bernals brought an action for interpleader docketed as Civil Case No. 56850[7] for not knowing whom to pay. While both actions were pending resolution by the trial court, on March 20, 1966, Tan assigned in favor of George Litton, Sr. his litigious credit[**] in Civil Case No. 56850 against Mendoza duly submitted to the court,

with notice to the parties.[8] The deed of assignment was framed in the following tenor:

"DEED OF ASSIGNMENT

I, ALFONSO TAN, of age, Chinese, married to UY CHAY UA, residing at No. 6 Kanlaon, Quezon City, doing business under the name and style ALTA COMMERCIAL by way of securing or guaranteeing my obligation to Mr. GEORGE LITTON, SR., do by these presents CEDE, ASSIGN, TRANSFER AND CONVEY unto the said Mr. GEORGE LITTON, SR., my claim against C.B.M. Products, Inc., personally guaranteed by Mr. Ciriaco B. Mendoza, in the amount of Eighty Thousand Seven Hundred Ninety-Six Pesos and Sixty-two centavos (P80,796.62) the balance of which, in principal, and excluding, interests, costs, damages and attorney's fees now stands at P76,000.00, P4,796.62, having already been received by the assignor on December 23, 1965, pursuant to the order of the court in Civil Case No. 56850, C.F.I., Manila, authorizing Alfonso Tan to withdraw the amount of P4,796.62 then on deposit with the court. All rights, and interests in said net amount, plus interests and costs, and less attorney's fees, in case the amount allowed therefor be less than the amounts claimed in the relief in Civil Case 56850 (C.F.I., Manila) and Q-8503 (C.F.I., Quezon City) are by these presents covered by this assignment.

I further undertake to hold in trust any and all amounts which may hereafter be realized from the aforementioned cases for the ASSIGNEE, Mr. GEORGE LITTON, SR., and to turn over to him such amounts in application to my liability to him, as his interest may then show, and I further undertake to cooperate towards the successful prosecution of the aforementioned cases making available myself, as witness or otherwise, as well as any and all documents thereto appertaining, x x x"[9]

After due trial, the lower court ruled that the said PNB checks were issued by Mendoza in favor of Tan for a commission in the sum of P4,847.79 and held Mendoza liable as a drawer whose liability is primary and not merely as an indorser and thus directed Mendoza to pay Tan the sum of P76,000.00, the sum still due, plus damages and attorney's fees.[10]

Mendoza seasonably filed an appeal with the Court of Appeals, docketed as C.A. G.R. No. 41900-R, arguing in the main that his liability is one of an accommodation party and not as a drawer.

On January 27, 1977, the Court of Appeals rendered a decision affirming in toto the decision of the lower court.[11]

Meanwhile, on February 2, 1971, pending the resolution of the said appeal, Mendoza entered into a compromise agreement with Tan wherein the latter acknowledged that all his claims against Mendoza had been settled and that by reason of said settlement both parties mutually waive, release and quit whatever claim, right or cause of action one may have against the other, with a provision that the said compromise agreement shall not in any way affect the right of Tan to enforce by appropriate action his claims against the Bernal spouses.[12]

On February 25, 1977, Mendoza filed a motion for reconsideration praying that the decision of January 27, 1977 be set aside, principally anchored upon the ground that a compromise agreement was entered into between him and Tan which in effect released Mendoza from liability. Tan filed an opposition to this motion claiming that the compromise agreement is null and void as he was not properly represented by his counsel of record Atty. Quiogue, and was instead represented by a certain Atty. Laberinto, and principally because of the deed of assignment that he executed in favor of George Litton, Sr. alleging that with such, he has no more right to alienate said credit.

While the case was still pending reconsideration by the respondent court, Tan, the assignor, died leaving no properties whatever to satisfy the claim of the estate of the late George Litton, Sr.

In its Resolution dated August 30, 1977,[13] the respondent court set aside its decision and approved the

compromise agreement.

As to the first ground invoked by Tan, now deceased, the respondent court ruled that the non-intervention of Tan's counsel of record in the compromise agreement does not affect the validity of the settlement on the ground that the client had an undoubted right to compromise a suit without the intervention of his lawyer, citing *Aro vs. Nanawa*.^[14]

As to the second ground, respondent court ruled as follows:

"xxx it is relevant to note that Paragraph 1 of the deed of assignment states that the cession, assignment, transfer, and conveyance by Alfonso Tan was only by way of securing or guaranteeing his obligation to GEORGE LITTON, SR.

"Hence, Alfonso Tan retained possession and dominion of the credit (Par. 2, Art. 2085, Civil Code).

"Even considered as a litigious credit,' which indeed characterized the claims herein of Alfonso Tan, such credit may be validly alienated by Tan (Art. 1634. Civil Code).

"Such alienation is subject to the remedies of Litton under Article 6 of the Civil Code, whereby the waiver, release, or quit-claim made by plaintiff-appellee Alfonso Tan in favor of defendant-appellant Ciriaco B. Mendoza, if proven prejudicial to George Litton, Sr., as assignee under the deed of assignment, may entitle Litton to pursue his remedies against Tan.

"The alienation of a litigious credit is further subject to the debtor's right of redemption under Article 1634 of the Civil Code."

As mentioned earlier, the assignor Tan died pending resolution of the motion for reconsideration. The estate of George Litton, Sr., petitioner herein, as represented by James Litton, son of George Litton, Sr. and administrator^[15] of the former's estate, is now appealing the said resolution to this Court as assignee of the amount sued in Civil Case No. Q-8303, in relation to Civil Case No. 56850.

Before resolving the main issues aforementioned, the question of legal personality of herein petitioner to bring the instant petition for review, must be resolved.

As a rule, the parties in an appeal through a review on certiorari are the same original parties to the case.^[16] If after the rendition of judgment the original party dies, he should be substituted by his successor-in-interest. In this case, it is not disputed that no proper substitution of parties was done. This notwithstanding, the Court so holds that the same cannot and will not materially affect the legal right of herein petitioner in instituting the instant petition in view of the tenor of the deed of assignment, particularly paragraph two thereof^[17] wherein the assignor, Tan, assumed the responsibility to prosecute the case and to turn over to the assignee whatever amounts may be realized in the prosecution of the suit.

We note that private respondent moved for the dismissal of the appeal without notifying the estate of George Litton, Sr. whereas the former was fully aware of the fact that the said estate is an assignee of Tan's right in the case litigated.^[18] Hence, if herein petitioner failed to observe the proper substitution of parties when Alfonso Tan died during the pendency of private respondent's motion for reconsideration, no one is to blame but private respondent himself. Moreover, the right of the petitioner to bring the present petition is well within the concept of a real party-in-interest in the subject matter of the action. Well-settled is the rule that a real party-in-interest is a party entitled to the avails of the suit or the party who would be injured by the judgment.^[19] We see the petitioner well within the latter category.

Hence, as the assignee and successor-in-interest of Tan, petitioner has the personality to bring this petition in

substitution of Tan.

Now, the resolution of the main issues.

The purpose of a compromise being to replace and terminate controverted claims,[20] courts encourage the same. A compromise once approved by final order of the court has the force of *res judicata* between parties and should not be disturbed except for vices of consent or forgery.[21]

In this case, petitioner seeks to set aside the said compromise on the ground that previous thereto, Tan executed a deed of assignment in favor of George Litton, Sr. involving the same litigated credit.

We rule for the petitioner. The fact that the deed of assignment was done by way of securing or guaranteeing Tan's obligation in favor of George Litton, Sr., as observed by the appellate court, will not in any way alter the resolution on the matter. The validity of the guaranty or pledge in favor of Litton has not been questioned. Our examination of the deed of assignment shows that it fulfills the requisites of a valid pledge or mortgage.[22] Although it is true that Tan may validly alienate the litigious credit as ruled by the appellate court, citing Article 1634 of the Civil Code, said provision should not be taken to mean as a grant of an absolute right on the part of the assignor Tan to indiscriminately dispose of the thing or the right given as security. The Court rules that the said provision should be read in consonance with Article 2097 of the same code.[23] Although the pledgee or the assignee, Litton, Sr. did not *ipso facto* become the creditor of private respondent Mendoza, the pledge being valid, the incorporeal right assigned by Tan in favor of the former can only be alienated by the latter with due notice to and consent of Litton, Sr. or his duly authorized representative. To allow the assignor to dispose of or alienate the security without notice and consent of the assignee will render nugatory the very purpose of a pledge or an assignment of credit.

Moreover, under Article 1634,[24] the debtor has a corresponding obligation to reimburse the assignee, Litton, Sr. for the price he paid or for the value given as consideration for the deed of assignment. Failing in this, the alienation of the litigated credit made by Tan in favor of private respondent by way of a compromise agreement does not bind the assignee, petitioner herein.

Indeed, a painstaking review of the record of the case reveals that private respondent has, from the very beginning, been fully aware of the deed of assignment executed by Tan in favor of Litton, Sr. as said deed was duly submitted to Branch XI of the then Court of First Instance of Manila in Civil Case No. 56850 (in relation to Civil Case No. Q-8303) where C.B.M. Products is one of the defendants and the parties were notified through their counsel.[25] As earlier mentioned, private respondent herein is the president of C.B.M. Products, hence, his contention that he is not aware of the said deed of assignment deserves scant consideration from the Court. Petitioner pointed out at the same time that private respondent together with his counsel were served with a copy of the deed of assignment which allegation remains uncontroverted. Having such knowledge thereof, private respondent is estopped from entering into a compromise agreement involving the same litigated credit without notice to and consent of the assignee, petitioner herein. More so, in the light of the fact that no reimbursement has ever been made in favor of the assignee as required under Article 1634. Private respondent acted in bad faith and in connivance with assignor Tan so as to defraud the petitioner in entering into the compromise agreement.

WHEREFORE, the petition is GRANTED. The assailed resolution of the respondent court dated August 30, 1977 is hereby SET ASIDE, the said compromise agreement being null and void, and a new one is hereby rendered reinstating its decision dated January 27, 1977, affirming in toto the decision of the lower court. This decision is immediately executory. No motion for extension of time to file a motion for reconsideration will be granted.

SO ORDERED.

Narvasa, Cruz, and Griño-Aquino, JJ., concur.
Medialdea, J., on leave.

[1] Court of First Instance of Manila, Branch XI.

[2] Plaintiffs-Interpleader, Civil Case No. 56850.

[3] Defendant in Civil Case Nos. 8303 & 56850.

[4] PBTC Check No. 927581-C.

[5] For P75,948.83 & P4,847.79 respectively.

[6] Supra.

[7] Ramon P. Bernal vs. C.B.M. Products et al.

[**] This is now the subject of this petition.

[8] Page 92, Rollo; Manifestation filed by George Litton, Sr. dated September 1, 1966.

[9] Pages 31-32, Rollo.

[10] Decision of December 2, 1967.

[11] Penned by Justice Ramon C. Fernandez.

[12] Pages 30-31, Rollo.

[13] Penned by Justice Ricardo C. Puno and concurred into by Justices Pacifico P. de Castro and Delfin Fl. Batacan, pages 29-36, Rollo.

[14] 27 SCRA 1090 (1969).

[15] He was appointed as administrator of the estate of the late George Litton, Sr. on August 7, 1978 in Special Proceedings No. 8833, letters of administration of which was issued on August 10, 1978.

[16] Page 471, Volume 2, Moran, Comments on the Rules of Court, 1979 ed.

[17] Supra

[18] Infra.

[19] Salonga vs. Warner Barnes & Co., Ltd., 88 Phil. 125, 131 (1951).

[20] Republic vs. Estenzo, 21 SCRA 122 (1968).

[21] Araneta vs. Perez, 7 SCRA 923 (1963); Republic vs. Estenzo, supra; Vda. de Corpuz vs. Phodaca-Ambrosio, 32 SCRA 279 (1970).

[22] Article 2085, Civil Code.

[23] Article 2097. With the consent of the pledgee, the thing pledged may be alienated by the pledgor or owner, subject to the pledge. The ownership of the thing pledged is transmitted to the vendee or transferee as soon as the pledgee consents to the alienation, but the latter shall continue in possession.

[24] Article 1634. When a credit or other incorporeal right in litigation is sold, the debtor shall have a right to extinguish it by reimbursing the assignee for the Price the latter paid therefor, the judicial costs incurred by him, and the interest on the price from the day on which the same was paid. A creditor other incorporeal nght shall be considered in litigation from the time the complaint concerning the same is answered. The debtor may exercise his right within thirty days from the date the assignee demands payment from him.

[25] Annex "A-1" to compliance of counsel for petitioner; page 92, Rollo.

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