

ANTONIO CALAHONG, PETITIONER, VS. HEIRS OF CENON TAYO AND AGATA SANZ TAYO, NAMELY: SENONITO TAYO, ROSINA TAYO, SEMIDO TAYO, MINDA TAYO, NOEMA TAYO, LITA TAYO, AND LETTY TAYO,

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Filed with this Court pursuant to Rule 47 of the Revised Rules of Court is a petition for annulment of the decision[1] rendered by Branch 65 of the RTC in San Miguel, Jordan, Guimaras on September 7, 1999 in Civil Case No. 076 for Ownership and Possession.

The Antecedents

The facts as succinctly narrated in the petitioner's brief[2] are as follows:

Petitioner Antonio Calahong avers that on September 7, 1999, public respondent, the Honorable Judge Merlin D. Deloria, rendered a decision in Civil Case No. 076 for Ownership and Possession filed by plaintiffs Cenon Tayo, Senonito S. Tayo, Rosina S. Tayo, Semido S. Tayo, Minda S. Tayo, Noema S. Tayo, Lita S. Tayo and Letty S. Tayo who are now respondents herein against defendant Antonio Ang, now the other private respondent herein, the dispositive of the decision is as follows:

WHEREFORE, premises considered, judgement is hereby rendered upholding the validity of the sale made by plaintiff Senon Tayo to the defendant, in so far as his (Senon Tayo) share from the properties subject of the case is concerned, and recognizing the ownership and rights to possession of plaintiffs Senonito S. Tayo, Rosina S. Tayo, Semido S. Tayo, Minda S. Tayo, Noema S. Tayo, Lita S. Tayo and Letty S. Tayo over their shares from the estate of Agata Sanz.

Parties are directed to divide the properties as follows:

Lot No. 1364 590.75 square meters to plaintiffs Senonito S. Tayo, Rosina S. Tayo, Semido S. Tayo, Minda S. Tayo, Noema S. Tayo, Lita S. Tayo and Letty S. Tayo, at 84.25 square meters each; 759.25 square meters to the defendant.

Lot 1365 13, 531.434 square meters to plaintiffs Senonito S. Tayo, Rosina S. Tayo, Semido S. Tayo, Minda S. Tayo, Noema S. Tayo, Lita S. Tayo and Letty S. Tayo at 1,933.062 square meters each; 17,397.562 square meters to the defendant.

Defendant is directed to deliver unto the plaintiffs possession of their respective shares above defined.

Plaintiffs are directed to pay the estate tax due the government before entering into possession of their respective shares.

All other claims and counterclaims are ordered DISMISSED.

SO ORDERED.

07 September 1999, San Miguel, Jordan, Guimaras.[3]

Petitioner maintained that pursuant to the aforesaid decision, public respondent Sheriff Erly S. Martir of the Regional Trial Court Branch 65 implemented the writ of execution issued by public respondent Honorable Judge Merlin D. Deloria to the private respondents sometime in August 2002, and thereafter the Sheriff made a return on August 19, 2002. Part of the writ of execution included therein Lot No. 1365, PLS-723N located at Brgy. Umilig, Buenavista, Guimaras with a total area of Thirty Thousand Nine Hundred Twenty Nine (30, 929) square meters, a portion of about Ten Thousand and Fifty Seven square meters was purchased by the herein petitioner from the respondent Agata Sanz Tayo on March 16, 1972.

Petitioner insists that the respondents, heirs of Agata Sanz Tayo, filed the complaint without including therein the petitioner when the said heirs knew that since 1972, he (petitioner) is the owner and in possession of a portion of Lot 1365 as a consequence of the sale made by their mother Agata Sanz Tayo on March 16, 1972 to him;

Petitioner claims that he was intentionally not included in the complaint even if the respondents knew that he has interest in the subject property. He stressed that had he been notified of the complaint, he could have had intervened and defended his right with regard to his ownership of a portion of the subject property;

He narrated that the judgment was issued against him when in truth and in fact he is a stranger to the case. He reasons that he could not have known of the complaint since he was in Mindanao in the year 1997 when the complaint was filed.

Petitioner bewails that through fraud and collusion of the respondents, the latter were able to secure the judgment in their favor without giving him his day in court to defend his right of ownership of the portion of Lot 1365. As a consequence thereof, the said respondents were able to deprive the petitioner of his right to move for a new trial, appeal from the judgment or file petition for relief from judgment against them.

He further stated that the legal remedies for the protection of his right were not availed of by him through no fault on his part. He claims that he only came to know the adverse judgment which included the portion of Lot 1365 that he owned for almost 32 years when he was confronted by the respondents in the police station after he had complained of the unlawful intrusion of the respondents heirs on his property.

He recalled that from the time of the sale dated March 16, 1972 until July 21, 2003, he had been enjoying the peaceful possession of the subject property as the true and lawful owner in an open, continuous, notorious and adverse manner;

Petitioner claimed that the subject property was sold to him by Agata Sanz Tayo, the mother of the plaintiffs, now respondents and the deceased wife of Senon Tayo, with marital consent of the latter who confirmed his signature on the Deed of Absolute Sale.

He further narrated that the Regional Trial Court rendered the decision which partitioned the whole portion of 1365 to the respondents, heirs of Agata Sanz Tayo and Antonio Ang, (the defendants in the original complaint filed by the other respondents before the Regional Trial Court) without the knowledge that a portion of 10, 057 square meters of Lot 1365 belongs to the petitioner. He states that the Regional Trial Court could have had respected the ownership of the petitioner to the 10, 057 square meters of Lot 1365 if the respondents did not collude to conceal the action involving the property owned by the petitioner.

Undaunted by the setbacks encountered by him, the petitioner filed the instant petition to this Court. He seeks to annul the decision rendered by Branch 65 of the RTC in San Miguel, Jordan, Guimaras on September 7, 1999 in

Civil Case No. 076 purportedly on the ground that extrinsic fraud tainted it, thereby denying him due process of law.

This Court's Ruling

The threshold issue that we have to pass upon in this case first and foremost is whether the petition filed should be given due course or not.

After a judicious scrutiny of the petition, We have come up with a finding that the same should be granted due course for two reasons: first, the petitioner has substantiated his claims and second, he alleged and presented evidence of fraud or deception employed on him by the respondents to deprive him of opportunity to present his case to the court.

To recall, on April 8, 2004, Petitioner filed his Petition[4] through his counsel Atty. Tomas E. Junco, Jr. On May 26, 2004, We issued a Resolution[5] finding that the said petition is dismissible for the following reasons, to wit:

1. Failure to state the date of the discovery of the fraud or collusion on which this petition is based, hence, there is no way of determining whether the petition is timely filed; and
2. Failure to attach pertinent pleadings/documents such as the Complaint, Answer, Writ of Execution, or Oct No. F-3092 and the Deed of Sale in favor of the petitioner to support the cause of action as required under Section 4, Rule 47, and as required under Section 3, Rule 46 all of the 1997 Rules of Civil Procedure, as amended.

On June 7, 2004, petitioner filed a Motion for Reconsideration[6] stating the paragraph 5 of his petition, which declares that pursuant to the aforesaid Decision, public respondent Sheriff Erly S. Martir of the RTC Branch 65 implemented the writ of execution issued by public respondent Honorable Judge Merlin Deloria to the herein petitioner sometime in August 2002, and thereafter the sheriff made a return on August 19, 2002. Petitioner claims that it was during the implementation of the decision of the respondent judge by the sheriff when he learned of the said decision wherein the lot belonging to him was included. He further asserts that it was during that time that he was able to discover the collusion and fraud made by the respondents in filing the complaint.

Thereafter, on September 13, 2004, We issued a Resolution[7] ruling that the deficiencies in the petition dated April 26, 2004 were cured through the filing of the Motion for Reconsideration dated June 7, 2004 and the attached pleadings thereto. Hence, this petition was reinstated.

As early as the case of *Anuran vs. Aquino*,[8] which the Supreme Court decided in 1918, the pronouncement was already made, thus:

There can be no question as to the right of any person adversely affected by a judgment to maintain an action to enjoin its enforcement and to have it declared a nullity on the ground of fraud and collusion practiced in the very matter of obtaining the judgment when such fraud is extrinsic or collateral to the matters involved in the issues raised at the trial which resulted in such judgment... (Emphasis and underscoring supplied).

While the foregoing may not be so patent, the more recent case of *Villanueva vs. Nite*[9] was categorical in decreeing that “annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled is promulgated. It can be filed by one who was not a party to the case in which the assailed judgment was rendered”. (Emphasis and underscoring supplied). The ruling was reiterated and even elaborated in *Intestate Estate of the Late Nimfa Sian vs. PNB*,[10] where the Supreme Court said, thus:

En passant, one need not be a party to the judgment sought to be annulled. What is essential is that it (sic) can prove his allegation that the judgment was obtained by the use of fraud and collusion and it (sic) would be

adversely affected thereby. Even where there was no fraud and collusion, however, this Court has allowed parties to file petitions for annulment of judgment to question precisely their non-inclusion as parties to the original case. (Emphasis and underscoring supplied).

Indeed, petitioner's non-participation in Civil Case No. 076 did not bar him from seeking the proper action, which is to annul the judgment of the Regional Trial Court before Us. This is the clear import of, and the matter confirmed by the foregoing jurisprudence.

Precisely, petitioner's non-involvement in Civil Case No. 076 was the extrinsic fraud contemplated by law that justifies him to seek the annulment of the judgment. In the case at bench, petitioner stressed that he was intentionally not included in the complaint even if the respondents knew that the petitioner has interest on a portion of the subject property. Accordingly, extrinsic or collateral fraud pertains to such fraud which prevents the aggrieved party from having a trial or presenting his case to the court, or is used to procure the judgment without fair submission of the controversy.[11] This refers to acts intended to keep the unsuccessful party away from the courts as when there is a false promise of compromise or when one is kept in ignorance of the suit.[12]

The fact that he was not made a party in Civil Case No. 076 wherein the property which he owned was involved, was supposedly the very fraud committed against the petitioner. It is also the exact ground why his remedy should be to seek the annulment of the judgment.

Here, petitioner has not availed of the remedies that could have protected his rights through no fault of his own. He came to know only of the adverse judgment which included the portion of Lot 1365 that he owned for almost 32 years when he was confronted by the respondents in the police station after he had complained of the unlawful intrusion of the respondents heirs on his property.

Since the petitioner was not impleaded in Civil Case No. 076, there is no basis to presume that he was aware of the civil case during its pendency before the RTC. Under this circumstance, it would be difficult to discern how in 1999, petitioner could have availed of the remedies provided under the law.

To be certain, in *Ramos v. Judge Combong, Jr.*,[13] this Court expounded that the remedy of annulment of judgment is only available under certain exceptional circumstances as this is adverse to the concept of immutability of final judgments:

Annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy. Rule 47 of the 1997 Rules of Civil Procedure, as amended, governs actions for annulment of judgments or final orders and resolutions, and Section 2 thereof explicitly provides only two grounds for annulment of judgment, i.e., extrinsic fraud and lack of jurisdiction. The underlying reason is traceable to the notion that annulling final judgments goes against the grain of finality of judgment. Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause involved therein should be laid to rest. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.[14]

Petitioner claims that he is the lawful owner of the parcel of land in litigation. He also avers that the heirs of Agata Sanz Tayo, the complainants in the original case intentionally did not include him in their complaint when said heirs knew that he was a part owner thereof. Indeed, with the strict scrutiny of the allegations in his petition as well as the documents attached to it, We found that he has supported his claims with substantial evidence.

Petitioner presented a Deed of Definite Sale[15] in order to substantiate his claim that a portion of the subject property was sold by Agata Sanz Tayo, the mother of the plaintiffs, with the marital consent of her husband Senon

Tayo who confirmed his signature on the said Deed executed in favor of petitioner.

Clearly, the Regional Trial Court rendered the decision which partitioned the whole portion of 1365 to the respondents heirs of Agata Sanz Tayo and Antonio Ang (the defendants in the original complaint filed by the other respondents before the Regional Trial Court) without the knowledge that a portion of 10, 057 square meters of Lot 1365 belongs to the petitioner. The said court could have had respected the ownership of the petitioner to the 10, 057 square meters of Lot 1365 if the respondents did not collude to conceal the action involving the property owned by the petitioner.

It should be stressed that in this case, there is an allegation in the petition and sufficient proof adduced showing highly exceptional circumstance to justify the failure of petitioner to avail of the remedies of appeal, petition for relief or other appropriate remedy through no fault attributable to him before filing this petition for annulment of judgment.

To reiterate, under the Rule, an action for annulment of judgments may only be availed of on the following grounds: (1) extrinsic fraud and (2) lack of jurisdiction.

Extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent. Fraud is regarded as 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. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[16]

The petition filed in this case presented the desired and required allegation or allegations of specificity of the extrinsic fraud that purportedly tainted the assailed decision. In other words, there is a sufficient allegation by the petitioner of the extrinsic fraud that purportedly vitiated the rendition of the assailed decision.

Thus, by any legal yardstick, it is evident that the petition filed in this case should be given due course and, accordingly, must be granted.

WHEREFORE, premises considered, the petition for Annulment of Judgment is GRANTED. The Decision dated September 7, 1999 of the Regional Trial Court, Branch 65, San Miguel, Jordan, Guimaras in Civil Case No. 076 is hereby ANNULLED and SET ASIDE.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 11-31

[2] Rollo, pp. 2-9.

[3] Rollo, p. 30.

[4] Rollo, p. 2-10.

[5] Rollo, pp. 35-36

[6] Rollo, pp. 37-39.

[7] Rollo, p. 65.

[8] 38 Phil. 29.

[9] July 15, 2006.

[10] G.R. No. 168882, January 31, 2007.

[11] Regalado, REMEDIAL LAW COMPEDIUM (1999), National Bookstore, Inc. Manila, pp. 380 and 557.

[12] Id., pp. 380-381.

[13] 510 Phil. 277 (2005).

[14] Id., pp. 281-282.

[15] Rollo, p. 56.

[16] Teodoro vs. Court of Appeals, 388 SCRA 527 (2002).

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