

ROSENDO RALIA AND PABLO RALLA, PETITIONERS, VS. HON. MATEO L. ALCASID, AS JUDGE OF THE COURT OF FIRST INSTANCE OF ALBAY AND PEDRO RALLA, RESPONDENTS.

G. R. No. L-17176. October 30, 1962

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Statement.—The instant petition for certiorari seeks to annul the orders of respondent judge appointing a receiver and refusing a bond to dissolve the receivership.

Seeking to recover physical possession of the parcels of land involved in the receivership, petitioners submit as alternative prayers (a) modification of the order appointing the receiver so that the receivership would only embrace certain parcels of land, and exclude others; or (b) discharge of receiver upon submission of a counter-bond of P20,000.00; or (c) increase of the receiver's bond from P10,000.00 to P20,000.00.

Facts.—On January 5, 1960, in the Court of First Instance of Albay, Pedro Ralla filed against his father Rosendo Ralla and his brother Pablo Ralla, an action for partition involving 212 parcels of land allegedly valued at P270,000.00. The complaint after making proper allegations, also prayed for the appointment of a receiver.

Pablo Ralla, in his answer, asserted exclusive ownership over a number of those parcels; Rosendo Ralla's ownership of other parcels; and ownership of the rest by the conjugal estate of Rosendo and his deceased wife, Paz Escarilla. Rosendo Ralla equally asserted exclusive ownership over a number of the said parcels; Pablo Ralla's exclusive ownership of those claimed by the latter; and conjugal ownership of the rest of the parcels by Rosendo with his deceased wife, Paz Escarilla.

After hearing the prayer for appointment of a receiver, the respondent court issued an order appointing a receiver of all the parcels of land enumerated in the inventory submitted by Pedro Ralla, except certain parcels of land. The Municipal Treasurer of Ligao, Albay, Vicente Real, qualified as receiver with a bond of P10,000.00.

A motion for reconsideration was denied. While such motion was pending, above petitioners presented an omnibus "Motion to be allowed to file a bond for the discharge of the receiver and/or Motion to resolve the motion for reconsideration of the order dated July 21, 1959 and motion to require accounting and increase of bond, if discharge of the receiver is not allowed."

However, respondent court entered an order denying the motion to reconsider the appointment of a receiver, and the motion to discharge the receivership upon the filing of a bond.

Issue.—On the principal contention that the respondent judge exceeded his jurisdiction or abused his discretion when he decreed the receivership and appointed a receiver in a partition proceeding, petitioners submit the instant petition for certiorari.

Discussion.—They rest their case on the following propositions: (1) in a partition proceeding, generally, no

administration is necessary and the appointment of a receiver is irregular; (2) the court appoints a receiver only after full consideration of the facts and circumstances of each particular case; (3) the consequences and effects thereof should be well taken into account, with a view to avoiding irreparable injustice or injury to the other parties who are entitled to as much consideration as those seeking it; (4) in an action involving title to real property, as in the above case, where the appointment of a receiver to take charge of the property has the effect of taking the property out of the possession of the above petitioners, application therefor should only be granted after a clear showing of the necessity thereof; (5) in this case, however, there is no such necessity, inasmuch as the rights of above respondent may be protected by notice of lis pendens or by the filing of a bond by petitioners to compensate for the damage sought to be prevented. Above petitioners had offered a counterbond of P20,000.00—twice the bond submitted by the receiver; (6) as the pleadings submitted in the lower court show the presence of adverse claim of title to a greater portion of the lands in question, the constitution of the receivership although protective of the rights of herein respondent Pedro Ralla would, on the other hand, cause disproportionate injury to the rights of herein petitioners.

Respondents have met the above propositions with arguments equally impressive, and these are, in brief, our conclusions:

A receiver of real or personal property, which is the subject of the action, may be appointed by the court when it appears from the pleadings, and/or such other proof as the judge may require, that the party applying for such appointment has an actual interest in it and that such property is in danger of being lost, removed or materially injured.[1] The appointment is also proper whenever it appears to be the most convenient and feasible means of preserving, or administering the property in litigation.[2]

The appointment of a receiver depends principally upon the sound discretion of the court; it is not a matter of absolute right. The facts and circumstances, of each particular case determine the soundness of the exercise of such discretion.[3] Among the consequences and effects considered by the courts before appointing a receiver are: (a) whether or not the injury resulting from such appointment would probably be greater than the injury ensuing if the status quo is left undisturbed[4]; and (b) whether or not the appointment will imperil the interests of others whose rights deserve as much a consideration from the court as those of the person requesting for receivership.[5]

In the case at bar, the respondent court ordered the appointment of a receiver after hearing and presentation of evidence by both parties. Eleven sessions were had for that purpose, numerous documentary proofs were submitted. The facts and circumstances upon which the order was based—which this Court is not prepared to revise at this time—are as follows:

"(1) It was not established to the satisfaction of the Court, with few exceptions, that the properties subject matter of the complaint for partition are exclusive properties of the surviving spouse, the defendant Rosendo Ralla. Most of the properties were either acquired or titled during the marriage and in fact in the various certificates of title Exhibits "11" to "114" the one half (1/2) undivided portion is registered in the name of Rosendo Ralla married to Paz Escarilla, the deceased mother of the plaintiff (Pedro Ralla).

"(2) The defendants have been disposing, conveying and transferring properties and converting them from the character of conjugal properties left by the deceased Paz Escarilla to the exclusive properties of the defendants with the avowed purpose and intention of depriving plaintiff of his right, interest, title and participation thereto and to the great damage and prejudice of the plaintiff, as evidenced by the documents of conveyance executed by the defendant Rosendo Ralla, marked Exhibits "C, "D" and "E";

"(3) The products, rentals, income, assets and funds collected and received by the defendants, since the death of said late Paz Escarilla on December 27, 1957, up to the present, from the properties, are in danger of being lost or removed;

"(4) The relations of the plaintiff and defendants who are co- owners are strained, and no satisfactory arrangement for administration of the property can be made and accomplished in spite of the efforts exerted by this Court to prevail upon the defendants toward this end on equitable basis;

"(5) The actuation of the defendants, the majority co-owners, results in serious prejudice to the minority, the plaintiff, and that the plaintiff has not been given the benefit or accounting of the products and income therefrom, and has not been given whatsoever his corresponding and due share thereof;

"(6) The plaintiff is being prevented by the defendants from entering the lands in question and from even interfering and aiding in the administration thereof."

In this atmosphere of strained relationship between the parties, of unsatisfactory arrangement for the administration of the properties involved, not to mention the conveyance by petitioners of some of the conjugal properties left by the deceased spouse of Rosendo Ralla, Paz Escarilla, it was not entirely improper to direct the appointment of a receiver. All the circumstances found by the lower court apparently justify the constitution of the receivership of the lands in question. The requirements of law have been more than satisfied.[6] Even under petitioners' theory that the granting therefor should only be "after a clear showing of the necessity thereof", the instant appointment of a receiver appears to be proper.

The case of Leonides Chunaco, et al. vs. Hon. Perfecto Quicho, et al.,[7] similar in nature to the present case, was resolved by this Court along the same lines with our conclusion in this litigation. There we held:

"While in a partition proceeding it is generally unnecessary for the court to appoint a receiver, however, (as held in the case of Tuason vs. Concepcion, 54 Phil., 408) where the relations among the co-owners are strained, and no satisfactory arrangement for administration can be accomplished, the appointment of a receiver is not an abuse of discretion.

"This ruling has been confirmed by Art. 492, par. 3 of the New Civil Code authorizing the appointment of an administrator (which term would include a receiver) in cases where the action of the majority co-owners results in serious prejudice to the minority.

"Should there be no majority, or should the resolution of the majority be seriously prejudicial to those interested in the property owned in common, the courts, at the instance of an interested party, shall order such measures as it may deem proper, including the appointment of an administrator."

We likewise sustain the lower court's order fixing the receiver's bond at only P10,000.00 because the records show, the gross income of the estate under receivership-lands, can not be lost-amounted quarterly to more or less P7,000.00 only.[8] Considering that the parties have been withdrawing their corresponding share from the net income, it is easy to understand that the bond already filed sufficiently answers for any cash remaining in the receiver's hands.

Judgment.—Without further discussing the other points raised by petitioners, we find no inclination to hold that the respondent court abused its discretion in the issuance of its questioned orders.

Petition denied with costs against petitioners.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] Sec. 1 (b), Rule 61, Rules of Court.

[2] Sec. 1 (e), Rule 61, Rules of Court.

[3] 53 Corpus Juris p. 35-36.

[4] 53 Corpus Juris p. 37.

[5] Arcega vs. Pecson, 78 Phil., 743; 44 Off. Gaz. No. 12, p. 4884. of depriving plaintiff of his right, interest, title and participation thereto and to the great damage and prejudice of the plaintiff, as evidenced by the documents of conveyance executed by the defendant Rosendo Ralla, marked Exhibits "C", "D" and "E";

[6] Sec. 1, Rule 61, Rules of Court.

[7] L-13774, January 30, 1959.

[8] See Annexes, C, D and E.

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