

**FILOMENA G. PIZARRO, MISAEAL G. PIZARRO, AURELIO PIZARRO JR.,
LUZMINDA G. PIZARRO, DELIATHELMA G. PIZARRO, ROGELIO G.
PIZARRO, VIRGILIO G. PIZARRO, ROSALINDA G. PIZARRO, JOSE
ELV...**

G.R. No. L-31979. August 06, 1980

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A review of the Decision of the Court of Appeals in CA-G.R. No. 42507-R, entitled *Filomena Pizarro, et al. vs. Hon. Manases G. Reyes, et al.*, dismissing the petition for Certiorari and Mandamus with Prohibition and Preliminary Injunction which sought to nullify the Order of the Court of First Instance of Davao, Branch III, dated April 10, 1968, dismissing Civil Case No. 5762.

The controversy stemmed from the following facts:

Petitioner Filomena G. Pizarro, is the surviving spouse of the late Aurelio Pizarro, Sr., while the other petitioners, Misael, Aurelio, Jr., Luzminda, Delia-Thelma, Rogelio, Virgilio, Rosalinda, Jose Elvin and Maria Evelyn, all surnamed Pizarro, as well as respondents Alicia P. Ladisla and Lydia P. Gudani, are their children. Upon the death of Aurelio Pizarro, Sr., Special Proceedings No. 1421 entitled "In the Intestate Estate of the Deceased Aurelio Pizarro, Sr.," was instituted by petitioners through Atty. Regalado C. Salvador on September 21, 1965 in the Court of First Instance of Davao, Branch I, presided by Judge Vicente P. Bullecer. Listed among the properties of the estate were parcels of land situated in Agdao, J. Palma Gil, and Claro M. Recto Streets, Davao City. On December 23, 1965, the Court, upon agreement of the parties, appointed Gaudencio A. Corias, Clerk of Court of said Court, as Administrator of the estate.

On January 11, 1967, the Administrator, through Atty. Regalado C. Salvador, filed a Motion for Authority to Sell the properties located at Agdao and Jose Palma Gil Streets, Davao City, to settle the debts of the estate initially estimated at P257,361.23, including inheritance and estate taxes. The heirs, Alicia P. Ladisla and Lydia P. Gudani, opposed the Motion stating that the claims against the estate had not yet been properly determined and that the sale of the Agdao lot with an area of 13,014 sq. ms. would be more than sufficient to cover the supposed obligations of the estate, which they claimed were exaggerated.

The Court, in its Order dated February 7, 1967, authorized the sale "in the interest of the parties" and since majority of the heirs were in favor of the sale "to avoid unnecessary additional burden of about P2,000.00 every month".[1] On February 8, 1967 the Administrator moved for the approval of the conditional sale of the Agdao property to Alfonso L. Angliongto for a total consideration of P146,820.00 payable in six installments including the down payment.[2] The document of sale stipulated that the vendor was to cause the ejectment of all occupants in the property on or before July 31, 1967, otherwise, the vendee was to have the right to rescind the sale and demand reimbursement of the price already paid. The heirs filed a Motion, also dated February 8, 1967, to set aside or hold in abeyance the Order authorizing the sale on the ground that they were negotiating for the sale of

said lot to Mr. Benjamin Gonzales, whose theatre was being constructed on a 1,187 square meter portion thereof.[3]

The Court, in its Order dated February 9, 1967, denied the "Motion to Set Aside" stating that the grounds relied upon by the heirs were "nothing but speculations and had no legal basis".[4] The heirs moved for reconsideration alleging that they were being deprived of the right to a more beneficial sale.[5] On February 11, 1967, a hearing was held on the Motion for approval of the sale of the Agdao lot to Alfonso Angliongto.[6] The heirs maintained their objection on the grounds that 1) the sale would be improvident and greatly prejudicial; 2) there has been no determination of the debts or obligations of the estate as yet; and 3) the terms of the sale were very prejudicial to them. The Court denied reconsideration on February 20, 1967,[7] and approved the sale on the same date stating that "the sale sought to be approved was more beneficial."

On February 22, 1967, the Administrator presented another Motion for Authority to Sell the Claro M. Recto lot stating that the proceeds from the sale of the Agdao lot were not sufficient to settle the obligations of the estate and that the sale of the property on J. Palma Gil Street was unanimously opposed by the heirs. Authority was granted by the Court on March 6, 1967.[8]

Prior to this, the heirs, in a Motion dated February 27, 1967 prayed that Administrator Gaudencio A. Corias be asked to resign or be removed for having abused his powers and duties as such and that Letters of Administration be granted instead to Filomena Pizarro.[9] They also terminated the services of Atty. Regalado C. Salvador, who had acted likewise as counsel for the Administrator.

On March 11, 1967, the Administrator moved that he be allowed to resign.

On June 22, 1967, the heirs, except Alicia P. Ladisla and Lydia P. Gudani, filed a "Motion for Cancellation or Rescission of Conditional Contract of Sale" of the Agdao lot in favor of Alfonso L. Angliongto reiterating that it was unnecessary and prejudicial to their interests, that the sale of the lot in Claro M. Recto Street for P370,000.00 was more than sufficient to settle the obligations of the estate, that it was impossible to eject all nineteen tenants, not later than July 31, 1967, and that the vendee had failed to pay the last four installments due despite repeated demands.[10] Angliongto's counsel countered that the condition of the sale requiring the prior ejectment of squatters had not been complied with so that the vendee would hold in abeyance payment of the balance of the purchase price until all the squatters were ejected.[11] The Court denied rescission of the sale in its Order, dated July 3, 1967, stating that the relief prayed for is not within its power to grant, and that the heirs "should file the necessary action before a competent Court - not before this Court, and much less by mere motion".[12] The heirs moved to reconsider the said Order. In the meantime, Judge Bullecer was transferred to the Court of First Instance at Mati, Davao Oriental.

On July 6, 1967, the Administrator presented a "Motion to Approve Final Sale" of the Agdao lot to spouses Angliongtos stating that the latter had paid the full balance of P58,728.00. On the same date, the Court approved the same.[13] It appears that Transfer Certificate of Title No. T-19342 was issued in favor of Alfonso Angliongto on July 10, 1967.[14]

On July 13, 1967, Gaudencio Corias ceased to be Administrator.[15]

Without waiting for the resolution of their Motion for Reconsideration of the Order denying rescission of the sale, the heirs, except Alicia P. Ladisla and Lydia P. Gudani, filed on October 5, 1967, a verified Complaint for "Cancellation of Authority to Sell and Rescission and Annulment of Deed of Sale and Damages with Preliminary Injunction" (Civil Case No. 5762, hereinafter called the Rescission Case) in the Court of First Instance of Davao (raffled to Branch III), against the Angliongto spouses, Administrator Gaudencio A. Corias, Judge Vicente P.

Bullecer, Atty. Regalado C. Salvador, Alicia P. Ladisla and Lydia P. Gudani,[16] the latter two having refused to join as plaintiffs. Petitioners contended inter alia that despite all their efforts to block the sale "the Administrator taking advantage of the name and influence of the presiding Judge" succeeded in inducing Angliongto to purchase the lot at a price allegedly much higher than the reported P12.00 per square meter; that the sale contained an impossible condition which was the ejectment of the tenants before a certain date; that there was connivance between the Administrator and the vendee with the knowledge of the Judge and Atty. Regalado Salvador; and that they had suffered actual and moral damages by reason of the sale. They also prayed that since the vendees had entered the lot and destroyed improvements thereon, that they be enjoined from doing so. Attached to the Complaint was a letter[17] addressed to the surviving spouse, Filomena G. Pizarro, from Atty. Raul Tolentino to the effect that the sum of P58,728.00 issued by Alfonso Angliongto in favor of the estate and which was deposited by virtue of a Court Order had been dishonored by the Bank because of a stop-payment order of Angliongto.

All the defendants except Judge Bullecer and Atty. Corias who filed a Motion to Dismiss, presented their respective Answers. Eventually, however, they all adopted the same Motion predicated mainly on plaintiffs' lack of legal capacity to sue and lack of cause of action.[18] In addition, the Angliongtos pleaded *res judicata*, the sale having been approved by the Court as far back as February 20, 1967 and the final deed on July 6, 1967, and the corresponding title issued in the name of Alfonso Angliongto on July 10, 1967. Plaintiffs filed an Opposition[19] as well as a supplemental Opposition.[20]

On October 17, 1967, Judge Alfredo I. Gonzales, as Executive Judge, issued an Order enjoining the Angliongtos, their agents, laborers, representatives, from further cutting and destroying coconuts, other fruits and improvements on the property pending the final termination of the action or until a contrary order is issued by the Court, upon the filing of a bond in the amount of P25,000.00.[21]

On April 10, 1968, the trial Court (respondent Judge Manases G. Reyes presiding) dismissed the Rescission Case (Civil Case No. 5762) on the ground that it could not review the actuations of a coordinate Branch of the Court besides the fact that a Motion for Reconsideration was still pending resolution before the Probate Court.[22] Plaintiffs' Motion for Reconsideration of the dismissal Order was denied on October 10, 1968.

While the Rescission Case was pending, the Angliongtos filed Civil Case No. 5849 for Damages (the Angliongto Case) against the heirs.

On November 25, 1968, petitioners elevated their cause to the Court of Appeals on "Certiorari and Mandamus with Prohibition and Injunction," charging that respondent Judge Manases G. Reyes gravely abused his discretion in dismissing the Rescission Case and prayed that he be required to take cognizance thereof and that the Angliongtos be enjoined from exercising rights of ownership over the property.

On February 11, 1970, the Court of Appeals dismissed the Petition opining that the Court of First Instance of Davao, Branch IV, did not abuse its discretion in approving the sale in the Intestate Case (Sp. Proc. No. 1421), and even granting that it did, the proper remedy was appeal not Certiorari; that the Court of First Instance, Branch III, neither abused its discretion in dismissing the Rescission Case (Civil Case No. 5762) as that case sought to review the actuations of a coordinate Branch which is beyond its judicial competence; and that since said dismissal was final, the proper remedy was appeal. It also observed that copies of the Orders sought to be reviewed were not certified true copies and, therefore, violative of Section 1, Rule 65 of the Rules of Court.

The present Petition before us seeks a reversal of the aforestated findings of the Appellate Court anchored on the principal contentions that the sale of the Agdao property should be rescinded for failure of the vendees to pay the purchase price, and that actually no review of the actuations of a co-equal Branch of the Court is being sought. We gave due course to the Petition on June 8, 1970.

In a Manifestation filed by petitioners on March 29, 1976,[23] they disclosed that the Angliongtos had mortgaged the Agdao property to the Development Bank of the Philippines in Davao City, in violation of the injunctive Order of the lower Court, and after redeeming the same, caused the property to be subdivided into three lots and titled in their names. Subsequently, they allegedly sold the biggest portion containing 11,500 sq. ms. to Yu Cho Khai and Cristina Sy Yu for P250,000.00 on October 25, 1975. Title to said portion has been allegedly transferred in favor of said vendees.

The primary point tendered for resolution is the correctness of the ruling of the Court of Appeals upholding the opinion of the trial Court that the latter was devoid of authority to review the actuations of a coordinate Branch of the Court. Secondarily, the propriety of the extra-ordinary remedy of Certiorari despite the existence of the remedy of appeal is also in issue.

Certiorari should lie.

While an Order of dismissal is, indeed, final and appealable as it puts an end to litigation and leaves nothing more to be done on the merits in the lower Court,[24] so that Certiorari is ordinarily unavailable, that general rule allows of exceptions, namely, when appeal is inadequate and ineffectual or when the broader interest of justice so requires.[25] In this case, appeal would not have afforded the heirs an effective and speedy recourse. It would have entailed a protracted litigation and in the interim, the heirs stood to suffer as a consequence of the approval of the sale. The prompt stoppage of that sale was vital to them. Thusly, appeal not being speedy enough to bring about the desired objective and to be of any utility to the heirs, their availment of Certiorari must be held to have been proper.

We come now to the question of correctness of the Order of dismissal of the trial Court which the Appellate Tribunal had upheld. As a strict legal proposition, no actuation of the Probate Court had to, be reviewed. There is no judicial interference to speak of by one Court in the actuations of another co-equal Court. The Order authorizing the sale was issued on February 7, 1967. The conditional sale was approved on February 20, 1967, and on July 6, 1967, the Court gave its stamp of approval to the final sale. Title was issued in favor of the vendees on July 10, 1967. To all intents and purposes, therefore, that sale had been consummated; the Order approving the sale, final.

But, what petitioners sought to achieve in filing the Rescission Case was to rescind the sale mainly for failure of the vendees to pay the full consideration thereof,[26] which is a valid ground for rescission. That cause of action was within the judicial competence and authority of the trial Court (Branch III) as a Court of First Instance with exclusive original jurisdiction over civil cases the subject matter of which is not capable of pecuniary estimation. It was beyond the jurisdictional bounds of the Probate Court (Branch IV) whose main province was the settlement of the estate. As a matter of fact, the Rescission Case was instituted after the Probate Court itself had stated that petitioners' cause of action was not within its authority to resolve but should be filed with the competent Court. The cause of action in one is different from that obtaining in the other. It behooved the trial Court, therefore, to have taken cognizance of and to have heard the Rescission Case on the merits and it was reversible error for the Court of Appeals to have upheld its dismissal.

In so far as the non-presentation of a certified true copy of the Order of April 10, 1968, sought to be reviewed, its concerned, there seems to have been substantial compliance with section 1, Rule 65, of the Rules of Court since the copy of the Order submitted is a duplicate copy of the original and bears the seal of the Trial Court. Lawyers should bear in mind, however, that a faithful compliance with the Rules is still the better practice.

WHEREFORE, the judgment of the Court of Appeals is reversed, and the incumbent Judge of the Court of First Instance of Davao, Branch III, is hereby ordered to take cognizance of and hear and decide Civil Case No. 5762

as expeditiously as possible.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and De Castro, JJ., concur.
Fernandez, J., on leave.

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- [1] Annex F, pp. 35-37, Record of CA-G.R. No. 42507-R
- [2] Annex G, pp. 38-39, Ibid.
- [3] Annex I, pp. 43-45, Ibid.
- [4] Annex J, pp. 46-47, Ibid.
- [5] Annex L, pp. 51-52, Ibid.
- [6] Annex M, pp. 53-107, Ibid.
- [7] Annex N, p. 108, Ibid.
- [8] Annex V, pp. 125-126, Ibid.
- [9] Annex S, pp. 117-121, Ibid.
- [10] Annex EE, pp. 133-136, Ibid.
- [11] Annex DD, p. 132, Ibid.
- [12] Annex FF, p. 137, Ibid.
- [13] Annexes AA & BB, pp. 129-130, Ibid.
- [14] Annex KK, p. 164, Ibid.
- [15] Annex LL, p. 178, Ibid.
- [16] pp. 143-153, Ibid.
- [17] Annex II, p. 159, Ibid.
- [18] Annex QQ, p. 241, Ibid.
- [19] Annex OO, pp. 193-200, Ibid.
- [20] Annex PP, pp. 201-218, Ibid.
- [21] Annex JJ, pp. 160-163, Ibid.
- [22] Annex QQ, pp. 235-239, Ibid.
- [23] pp. 60-62, Rollo.
- [24] Acting Director, NBI vs. Caluag, 2 SCRA 536 (1961); Bairan vs. Tan Sui Lay, 18 SCRA 1235 (1966); De la Cruz vs. Paras, 69 SCRA 556 (1976).
- [25] Romero Sr. vs. Court of Appeals, 40 SCRA 172 (1971); Sanchez vs. Court of Appeals, 69 SCRA 327 (1976).

[26] In their Brief (p. 11), the Angliongtos did not categorically deny the fact of non-payment but merely stated that the sale had received the approval of the Court. To quote:

"As to the statement that the vendee has not paid the purchase price, the record shows that the Final Sale was already approved by the Probate Court (Branch IV) in its order of July 6, 1967, to wit:

'As prayed for in the motion dated July 6, 1967 for the approval of Final Sale in favor of Alfonso Angliongtto, Jr. before Notary Public Atty. Raul O. Tolentino under Doc. No. 182; Page No. 38; Book No. V, Series of 1967, filed by the Judicial Administrator thru counsel Atty. Raul O. Tolentino, is hereby approved.' (Annex 'BB', Petition, Court of Appeals)."

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