

PAN REALTY CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND S.C. TAN EXPORT CORPORATION, RESPONDENTS.

G.R. No. L-47726. November 23, 1988

Ponente: NARVASA, J.

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NARVASA, J.:

A Regional Trial Court, acting as a Probate Court, has the power to authorize and approve the sale of the decedent's real property for the purpose inter alia of paying the debts, expenses of administration and legacies, if it clearly appears that such sale would be beneficial to the persons interested,[1] or (even if it be not for this purpose) if the sale will be otherwise beneficial to the heirs, devisees, legatees, and other interested persons.[2] It goes without saying that the Court has the discretion to pass upon and determine the basic question of whether or not such a sale does indeed meet the norms laid down therefor by the law, and to allow the sale despite objection of one or more of the heirs.[3] It is this power of the Probate Court with which the appeal at bar is concerned.

In the course of the judicial proceeding for the settlement of the testate estate of the late Segundo Villacorta,[4] the Probate Court approved the proposal that the real property at Shaw Boulevard, Mandaluyong, Rizal, known as the Villa-Acuña Building -- belonging to the conjugal estate of the deceased spouses Segundo Villacorta and Juana Acuña (Vda. de Perez) -- be offered for sale.[5] The property had been devised by Juana Acuña's will to her children by her first and second nuptials, including two grandchildren in representation of a daughter who had predeceased her. Two of the parties who submitted formal offers to purchase the Villa-Acuña Building were the Pan Realty Corporation and S.C. Tan Export Corporation.

Pan Realty Corporation, hereafter simply Pan Realty, declared willingness to buy the property upon the following terms:[6]

- Payment of a price of P800,000.00, "in cash, payable sixty (60) days after the approval of sale" by the Court;
- "All the heirs occupying portions of the property shall vacate their respective premises upon payment of the full consideration; ** (and all) paying tenants hav(ing) no lease contract except from month to month may be required to vacate;"
- "All the taxes on the said properties must be paid including the estate taxes, and the new titles in the name of the buyer must be free from any liens and encumbrances;"
- "The estate (seller) shall pay an agent's commission of five (5) per cent."

On the other hand, the offer of S.C. Tan Export Corporation -- made thru A. U. Valencia & Co. -- was attended by the following conditions:[7]

- "P10,000.00 - earnest money deposit ** upon acceptance (of the offer) by the court and/or all the heirs, ** (but) the check will ** (not) be negotiated and deposited until the title to the property shall be free of all heirs and incumbrances of whatever nature;"

- "P440,000.00 - upon approval of the court ** (of) the sale to our buyer and upon execution of all necessary documents;"
- "P450,000.00 - upon ejectment of all the heirs or if possible all the tenants now residing in the said property within 30 days after payment of 50% down;"
- "Real estate taxes and assessments, whether general or special, rentals, water, gas and electric service charges, shall be prorated and adjusted between Buyer and Seller, as of the date of execution of the deed of sale;"
- "The expenses for documentary and science stamps shall be for the account of the seller, while expenses for registration and transfer fees shall be for the account of the buyer:"
- "For services rendered, A.U. Valencia Co. Inc. (Realtors) shall be entitled to a standard rate of commission of five (5%) per cent based on the total agreed purchase price."

On November 19, 1975 a hearing was had on the matter, among others, of the offers of purchase,[8] during which --

1 both offerors submitted their respective certificates of availability of funds;[9]

2) Pan Realty amended its offer by (a) stating willingness to pay cash on execution of the deed of sale, and (b) foregoing the 5% commission and reimbursement for expenses for registration and documentary stamps, so that the net price to the estate would be P800,000.00;[10]

3) S.C. Tan Export Corporation, hereafter simply S.C. Tan, likewise amended its offer, declaring its amenability also to paying the price in full on execution of the deed of sale and the clearing of the property from liens and encumbrances as well as the ouster of all the heirs and known tenants then occupying the building; and it pointed out that after deducting from its proffered price of P900,000.00 the broker's commission of 5% (i.e., P45,000.00) and the cost of documentary and science stamps (about P5,000.00), the net proceeds of the sale to be received by the estate would be P850,000.00.[11] The Court thereafter deemed "the offers to buy the property ** submitted for resolution." [12]

An ex parte "Manifestation"[13] was subsequently filed by S.C. Tan under date of November 29, 1975 in which, except for a slight revision (indicated in the following quotation by italics), it reiterated -

- 1) "*** its offer to purchase the ** property in the amount of ** P900,000.00, ** payable in cash upon the execution of the deed of absolute sale and the (Court's) approval of the sale," and
- 2) "*** the condition that the title thereto shall be free from all liens and encumbrances at the time of the sale," but added "the further condition that said property shall be cleared of all tenants and occupants within a period of THIRTY (30) days from date of sale, the performance of this latter condition to be personally guaranteed and assured by the administrator of the estate and the counsel thereof."

The Probate Court found the offer of S.C. Tan to be "no doubt ** higher and more beneficial to the Estate" and approved it, by Order dated December 3, 1975. After reciting the parties' offers and the relevant antecedents, and noting that "S.C. Tan Export Co., Inc. ** (had) departed from the original conditions stated in the letter of October 14, 1975," the Order set out the following reasoned conclusion, to wit:

"The offer of Pan Realty Corporation will give the Estate a net proceed of P800,000.00 as it has cancelled the 5% commission and has undertaken to pay expenses for registration, documentary stamps and preparation of the document of sale. However, with respect to the offer of S.C. Tan Export Corporation, a 5% commission on P900,000.00 or P45,000 has to be paid by the seller. Assuming that other incidental expenses would amount to P5,000.00, the net proceeds for the sale of the property would be P850,000.00 or P50,000.00 more than the

offer of Pan Realty Corporation."

The Order made of record, too, the agreement of "the heirs presently residing in the building ** to leave the premises as soon as the sale is approved by the Court," as well as the undertaking of the other tenants, who had "appeared before the Court on November 26, 1975, ** (also) to leave the premises upon the approval of the sale provided that they are given at least thirty (30) days within which to vacate the premises." The Order closed with the following dispositions:

"WHEREFORE, the Court hereby approves the offer of S.C. Tan Export Corporation, and the Administrator of the Estate is directed within three (3) days from receipt of this order to prepare the necessary document of sale to be signed by the parties before the Court. The buyer is likewise directed to deposit with the Court the consideration of the sale upon the signing of the deed of sale.

"All the heirs and the tenants, namely: Natividad Herrera, Lucila Trinidad, Brizilda Llagas, Angel Quiogue, Arthur Taliwaga and Lazaro Carzon are given thirty (30) days from the execution of the deed of sale within which to vacate the premises." [14]

Within the time appointed, the deed of absolute sale was drawn up and signed by the acting administrator and the president of S.C. Tan Export Corporation and submitted to the Probate Court for approval. After finding the deed "in order," the Court approved it and directed the Acting Administrator of the Estate (1) "to deposit the proceeds of the sale with the bank" with the condition that "the disbursement thereof (would be) subject to the (Court's) approval," and (2) "to submit to ** (the) Court proof of such deposit within three (3) days **." [15]

Four days later, Pan Realty, together with some of the heirs, filed an "Urgent Joint Manifestation and Motion for Reconsideration," in which Pan Realty -- claiming that since S.C. Tan had presented a new offer without notice to it, thus depriving it of an equal opportunity to do the same -- submitted a new offer of P860,000.00 as purchase price of the property, which it asked to be accepted in lieu of that of S.C. Tan. [16] The motion was denied, [17] as was also, another motion for reconsideration of Pan Realty. [18]

Pan Realty went up to the Court of Appeals for relief. It instituted in that Court a special civil action of certiorari for the annulment of the orders of the Probate Court. [19] It however fared no better in that Court. Its action was dismissed, [20] and its motion for reconsideration of the dismissal was denied. [21]

The Court of Appeals ruled among others that --

- 1) there was no reason to disagree with the Probate Court's conclusion that the offer of S.C. Tan -- of a net price of P850,000.00 -- was more beneficial than that of Pan Realty -- of a net price of P800,000.00;
- 2) Pan Realty's offer of a new price of P860,000.00 came late, having been made after the sale in favor of S.C. Tan had been perfected and approved;
- 3) S.C. Tan's ex parte Manifestation of November 29, 1975 was not a motion which should be set for hearing in accordance with Rule 15 of the Rules of Court; it contained no prayer for relief and was essentially a mere reiteration of the buyer's standing offer to purchase the property; in any case, assuming defect in the manifestation, of absence of notice and hearing, it was cured when Pan Realty Corporation filed its motion for reconsideration of the order approving the sale in accordance with the buyer's original offer as well as its aforesaid manifestation;
- 4) all the legal requirements for the sale of the property had been complied with; and
- 5) the proper remedy against the challenged orders was appeal, not a special civil action of certiorari.

Pan Realty Corporation is now before this Court, on appeal by certiorari. It assails the adverse judgment of the

Court of Appeals on various grounds.[22] But its chief grievance, at bottom, is that it had been denied due process because the Probate Court had accepted and favorably considered a new offer of S.C. Tan -- different from its original offer -- despite the fact that, as the Probate Court well knew, S.C. Tan had neither given notice of said new offer to Pan Realty nor set the matter for hearing, and had thus deprived the latter of the opportunity also to make its own new offer for consideration and assessment by the Probate Court prior to taking final action on the sale.

Before taking up this crucial substantive question, a procedural issue may first be disposed of.

Section 1, Rule 109, dealing with "(o)rders or judgments (in special proceedings) from which appeals may be taken," pertinently provides in part that -

*** (a)n interested person may appeal ** from an order or judgment rendered by a ** (Regional Trial Court) where such order or judgment ** (c)onstitutes, in proceedings relating to the settlement of the estate of a deceased person, ** a final determination in the lower court of the rights of the party appealing, except that no appeal shall be allowed from the appointment of a special administrator **."

Now, the order of the Probate Court authorizing, or subsequently approving, the absolute sale of property of the estate in favor of a specified buyer undoubtedly constitutes a final determination of the rights not only of the buyer and the estate but also of any heir or party claiming to be prejudiced by the sale. For obviously, once the sale is consummated and approved by the Court, the buyer will acquire title to the property to the exclusion of the estate and the heirs or other party participating or otherwise involved in the proceedings for settlement of the estate, unless the authority to sell or the approval of the sale by the Court be reversed seasonably and by the proper adjective mode. After its approval of the sale, nothing is left to be done by the Probate Court with respect to the merits thereof; and it is thus in this sense, a final order "subject to appeal" pursuant to Section 2, Rule 41 of the Rules of Court.[23]

The remedy from this or any other final order is appeal, in accordance with Rule 41 of the Rules of Court, not a special civil action of certiorari under Rule 65 of the Rules of Court. Appeal -- whether by writ of error (where issues of fact and law are intended to be raised) or by certiorari (where only questions of law will be set up) -- is antithetical to the special civil action of certiorari. Thus, as may not infrequently happen, when both remedies are available to a party aggrieved by a judgment or final order of a Regional Trial Court (formerly Court of First Instance, or of any inferior court, for that matter), the availability of appeal proscribes recourse to the special civil action of certiorari. It may not be amiss to stress here that under the law at present, a special civil action of certiorari -- e.g., challenging an act of a Regional Trial Court as having been done without or in excess of jurisdiction, or with grave abuse of discretion -- may be instituted either in the Court of Appeals or the Supreme Court;[24] an appeal by certiorari, however, may be taken only to the Supreme Court, never to the Court of Appeals; there is no provision of law for taking appeals by certiorari to the Court of Appeals.

The nature of the questions of law intended to be raised on appeal is of no consequence. It may well be that those questions of law will treat exclusively of whether or not the judgment or final order was rendered without or in excess of jurisdiction, or with grave abuse of discretion (which questions are the peculiar targets of the extraordinary writ of certiorari). This is immaterial. The remedy, to repeat, is appeal, not certiorari as a special civil action. If the situation presents itself in an inferior court, the remedy is appeal to the Regional Trial Court, not the filing with that Court of a special civil action of certiorari. If the situation develops in a Regional Trial Court (Court of First Instance), the remedy is an appeal to the Supreme Court by petition for review on certiorari "filed and served in the form required for petitions for review on certiorari of decisions of the Court of Appeals,"[25] i.e., in accordance with Rule 45 of the Rules.

The antithetic character of the remedies is expressed in Section 1 of Rule 65. The provision clearly and explicitly lays down the rule that a special civil action of certiorari is proper only if "there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law." And the rule has been consistently applied in numerous cases,[26] saving only those rare instances where appeal is satisfactorily shown to be an inadequate remedy under the circumstances.[27]

The Court has been cited to no reason to depart from the foregoing established principles and sanction the choice by the petitioner of the special civil action of certiorari as a mode of review and reversal by the Court of Appeals of the final order of the Court of First Instance in question. That selection of remedy was in the premises wrong, and was so correctly declared by the Court of Appeals. The Orders, in question not having been appealed within the time and in the manner prescribed by Rule 41 of the Rules of Court, although said orders constituted "a final determination in the lower court of the rights of the party appealing" and therefore appealable in accordance with Section 1, Rule 109 of the Rules of Court above quoted, said orders became final and executory. They are now beyond the scope of the power of review of any court. They have become unalterable. And these considerations would appear to be sufficient cause for the dismissal of the petition at bar, which seeks precisely the alteration of those unalterable orders.

Be this as it may, the facts declared as established by both the Court of Appeals and the Probate Court -- which, by set rule and precedent, are as a rule binding on this Court absent, as here, any serious infirmity invalidating those findings[28] -- do not show any grave abuse of discretion on the part of the Probate Court in its assessment of the merits of the offers of Pan Realty and S.C. Tan and its subsequent adjudgment of the latter's offer as the more beneficial to the estate and the heirs concerned. It appears quite obvious that the price proposed by S.C. Tan (P850,000.00, net) is higher than that proffered by Pan Realty (P800,000.00, net). It is equally obvious that S.C. Tan's original offer -- set out in its written offer and amplified at the hearing of November 19, 1975 -- had not been significantly amended by its ex parte Manifestation of November 28, 1975.

The basic terms of S.C. Tan's original offer (as of November 19, 1975) were --

- 1) the price of P900,000.00 from which would be deducted the broker's commission of 5% (i.e., P45,000.00) and the cost of documentary and science stamps (about P5,000.00); resulting in a net price of P850,000.00; and
- 2) payment of the price in full on execution of the deed of sale and the clearing of the property from liens and encumbrances as well as the ouster of all the heirs and known tenants then occupying the building.[29]

S.C. Tan's ex parte Manifestation of November 28, 1975 simply reiterated its offer of the price of P900,000.00,[30] and the condition "that the title (of the propoerty) shall be free from all liens and encumbrances at the time of the sale, and the further condition that said property shall be cleared of all tenants and occupants **."

The only perceivable new proposal was the "further condition" that the clearing of the property of all occupants should be done "within a period of THIRTY (30) days from date of sale, the performance of ** (which was) to be personally guaranteed and assured by the administrator of the estate and the counsel thereof." No issue has however been raised by Pan Realty concerning this "new condition," fixing a period of 30 days for the clearing of the property of all occupants, under guarantee by the administrator and counsel of the estate. Pan Realty's plaint was that it had not been given a chance to raise its offered price from P800,000.00 to P860,000.00. It is difficult to see how the lack of notice to it of S.C. Tan's Manifestation of November 28, 1975 -- which, to repeat, only reiterated its original offer and merely added a 30-day period for the clearing of occupants of the property -- could have deprived it of the opportunity to raise its offered price, or in any way prevented it from doing so at any time after the hearing of November 19, 1975 and prior to the rendition of the questioned Order of December 31, 1975.

There is simply no causal connection between the alleged deprivation (of opportunity to raise the price, or prevention from doing so) and the imputed cause thereof (lack of notice that a 30-day period had been imposed for clearing the property of occupants).

On the other hand, it is apparent, too, that no undue advantage had been gained by S.C. Tan by its filing of the ex parte Manifestation of November 28, 1975. A reading of the Order of December 3, 1975 at once discloses that the Probate Court's understanding of S. C. Tan's offer of a net price of P850,000.00, as of the hearing of November 19, 1975, had not been changed at all by the subsequent manifestation of November 28, 1975. Before, as well as after, November 28, 1975, the Probate Court knew S.C. Tan's offer to be P850,000.00, net; and this, in fact, was the price ultimately fixed by the Court for the sale.

The lack of notice did not therefore result in the loss of any substantive right by Pan Realty. There is hence no point in belaboring the question of whether or not the Manifestation of November 28, 1975 was a motion, subject to the usual requirements of notice and hearing, or whether persons offering to purchase property of the estate are parties in the settlement proceeding (like heirs, or creditors-claimants) entitled to require a meticulous observance of the rules of procedure, such as those governing amendment of pleadings, submission of the case for decision, reopening of proceedings, etc. It suffices to declare as the Court of Appeals has, that the Probate Court had properly exercised its power to authorize the sale of an immovable property of the estate, and had not at all abused its discretion in determining the terms and conditions for such a sale.

WHEREFORE, the Decision of the Court of Appeals subject of this appeal is AFFIRMED, with costs against the petitioner.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Sec. 2, in relation to Sec. 7, Rule 89 of the Rules of Court

[2] Sec. 4, in relation to Sec. 7, Rule 89

[3] *Ortaliz v. Register of Deeds of Occ. Negros*, 55 Phil. 33; *Hashim v. Bautista Vda. de Nolasco* (unpublished), 56 Phil. 788; *Estate of Gamboa v. Floranza*, 12 Phil. 191; *Bonaca v. Soler*, L-15717, June 30, 1961, collated in *Moran, Comments on the Rules*, 1980 ed., Vol. 3, p. 534

[4] Docketed as Sp. Proc. No. 5500 of the Court of First Instance at Pasig, Rizal. Pending in the same Court at the time was the proceeding for the settlement of the estate of Juana Acuña, his wife, who died after him, docketed as Sp. Proc. No. 6040. Her will was duly admitted to probate on March 16, 1973.

[5] SEE "Motion to Summon Agents with Offers to Purchase the Villa-Acuña Building" dated Sept. 9, 1975 (CA Rollo, pp. 43-44)

[6] Rollo, p. 138

[7] SEE Order, Dec. 3, 1975, Rollo, p. 143

[8] Pursuant to a "Motion to Hear Offer of Buyers of Property of the Estate" filed by counsel for the intestate estate of the late Segundo Villacorta, second husband of the testatrix (CA Rollo, pp. 48-49)

[9] Respondent's brief, p. 5

[10] Petitioner's brief, pp. 6-8

[11] Respondent's brief, p. 5

- [12] Rollo, p. 139
- [13] Id., p. 141; emphasis supplied
- [14] Rollo, pp. 147-148
- [15] Id., p. 149
- [16] Id., p. 153
- [17] Order, Dec. 22, 1975; Rollo, pp. 158-160
- [18] Order, Sept. 1, 1976; Rollo, pp. 171-178
- [19] Docketed as CA-G.R. Nos. 06068-69-SP
- [20] Decision promulgated Nov. 2, 1977; Rollo, pp. 45-55
- [21] Resolution, Jan. 10, 1978; Rollo, p. 57
- [22] No less than nine (9) reversible errors are ascribed to the Court of Appeals
- [23] Denso (Phils.) Inc. v. I.A.C., 148 SCRA 280; Investments, Inc. v. C.A., 147 SCRA 334; Tinagan v. Rovira, 22 SCRA 209; Vda. de Celis v. Vda. de la Santa, 93 Phil. 909; Santos v. Roman Catholic Bishop of Nueva Caceres, 45 Phil. 895
- [24] Both Courts have concurrent jurisdiction over special civil actions of certiorari, prohibition, mandamus, quo warranto, habeas corpus (Sec. 29, BP 129).
- [25] Sec. 3, R.A. 5440, eff. Sept. 9, 1968, amending Sec. 2, Rule 42 of the Rules of Court, which used to read as follows: "Appeals on pure question of law. - Where the appellant states in his notice of appeal or record on appeal that he will raise only questions of law, no other question shall be allowed and the evidence need not be elevated."
- [26] Peo. v. Villanueva, 110 SCRA 465; Lobete v. Sundiam, 123 SCRA 95; Guanzon v. Montesclaros, 123 SCRA 185; de la Cruz v. I.A.C., 134 SCRA 417; Continental Leaf Tobacco (Phil.) Inc. v. I.A.C., 140 SCRA 269
- [27] Philippine Airlines Employees Association v. PAL., Inc., 111 SCRA 215; Co Chuan Seng v. C.A., 128 SCRA 308; Gonzales, Jr. v. I.A.C., 131 SCRA 468; Acain v. I.A.C., 155 SCRA 100
- [28] Sacay v. Sandiganbayan, 141 SCRA 394; Manlapaz v. C.A., 147 SCRA 238; Rizal Cement Co., Inc. v. Villareal, 135 SCRA 575; Collector of Customs of Manila v. I.A.C., 137 SCRA 3
- [29] SEE footnote 4, at p. 3, supra
- [30] Understood by the Court and even by Pan Realty as subject to deductions totalling P50,000.00 representing broker's commission and documentary and other stamps.

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