

HEIRS OF THE LATE EXEQUIEL B. GARCIA PETITIONERS, VS. THE HON. ARMANDO A. YANGA AS JUDGE, RTC OF MANILA, BRANCH 55 AND THE THE REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE BOA...

Ponente: CARANDANG, J.

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CARANDANG, J.:

This shall treat petitioners' Motion for Reconsideration[1] of Our Resolution dated January 25, 2012 which dismissed outright the instant petition for annulment of judgment for lack of substance and prima facie merit.

In this motion for reconsideration, petitioners vigorously insist that the assailed August 31, 2010 Decision of the lower court is a patent nullity since the lower court never acquired jurisdiction over them as heirs of the late Exequiel Garcia and they were, thus, denied of their basic right to due process for they were already entitled to substitute the deceased Garcia or to cause a legal representative in his place as early as April 19, 2008, the date of his death, or over two (2) months before he was declared in default in the Order dated July 9, 2008. They further claim that should they be denied of their right to a day in court, petitioners would be prevented from raising their defenses which materially bear on the correctness of the assailed decision of the public respondent.

Thereafter, petitioners filed an Urgent Motion to Set Incident for Oral Argument[2] their motion for reconsideration.

Meanwhile, this Court issued a Resolution[3] on November 5, 2012 directing both parties to submit copies of notices, proof of service or such other documentary evidence to show that defendant Exequiel Garcia was furnished with court notices after he was declared in default, or a manifestation if none so exist. Also, for the petitioners to include in their compliance a statement of their defenses and/or copies of their evidence to refute the liability of defendant Garcia if ever their petition will eventually be given due course by this Court.

By way of compliance,[4] petitioners submitted the Orders of the lower court and other pleadings issued and filed after the defendant Garcia was declared in default, but alleged that none of those notices and pleadings were given or served insofar as defendant Garcia was concerned. Some of the Orders were served by registered mail exclusively and solely on the Office of the Solicitor General (OSG). Further, petitioners averred that there was no conclusive proof of service by registered mail of the other Orders and the OSG's pleadings which were served by registered mail to defendant Garcia's old residence addresses at 2551 Bautista Street, Singalong, Manila or 25 Tolentino Street, San Lorenzo Village, Makati, when he was no longer residing there and had already passed away. As to their defenses, petitioners submitted the Contract of Conditional Purchase and Sale of Reparations of Goods, Memorandum of Agreement (Re-structuring of Pending Account), the demand letter dated November 10, 1987, the Statement of Account dated November 30, 2009 of the Visayan Packing Corporation, and a portion of the TSN dated April 22, 2009 in Civil Case No. 03-105723.

Respondents, on the other hand, submitted the following documents[5] as proof that defendant Garcia, whose death was unknown to the respondents until the filing of the instant petition, was furnished court

processes/pleadings at his address in 2551 Bautista St., Singalong, Manila after he was declared in default by the trial court on July 9, 2008, viz:

- a) Formal Offer of Evidence dated March 25, 2010 filed by the Republic;
- b) Order dated May 31, 2010
- c) Decision dated August 31, 2010
- d) Order dated May 20, 2011
- e) Manifestation and Motion dated October 12, 2011 filed by the Republic
- f) Order dated October 25, 2011

From the arguments presented by petitioners in their Motion for Reconsideration, Reply to Comment,[6] and their Compliance, as well as the Comment[7] and Compliance filed by respondents, this Court finds that there is no need to set the case for oral arguments. The arguments of the parties in the said pleadings in support of their respective contentions and the documents submitted by way of compliance are already exhaustive and sufficient to resolve the Motion for Reconsideration. Besides, hearing oral arguments on a motion for reconsideration rests upon the sound discretion of the Court.[8]

We shall now resolve the motion for reconsideration.

After a careful perusal of the arguments presented by petitioners in this motion, this Court finds no cogent reason to reverse, modify or set-aside our earlier ruling dismissing the instant petition. The arguments are mere reiterations of their previous arguments which have been duly considered and passed upon in the assailed ruling and We see no reason to depart therefrom.

As We have stated, and We again reiterate, the lower court's decision dated August 31, 2010 is not a nullity since the lower court has jurisdiction to proceed hearing Civil Case No. 03105723 even after the death of defendant Garcia pursuant to Section 20, Rule 3 of the Rules of Court.

Settled is the rule that a party declared in default is only entitled to notice of subsequent proceedings but not to take part in the trial.

Petitioners assert that Garcia was not served with the subsequent processes of the trial court after he was declared in default. It should be noted, however, that the whereabouts of defendant Garcia were not known.[9] That is why summons was served upon him by publication pursuant to Section 14 of Rule 14 of the Rules of Court. In such a case, there is obviously no way notice can be sent to him and the notice requirement cannot apply to him. The law does not require that the impossible be done. The law obliges no one to perform an impossibility.[10]

Hence, petitioners could not reasonably demand that copies of orders and processes be furnished to defendant Garcia. Be that as it may, the Compliance submitted by respondents show that defendant Garcia was served with a copy of the lower court's Decision dated August 31, 2010 by means of publication pursuant to Section 9, Rule 13 of the Rules of Court. This is very material considering that from the receipt of the decision, the heirs or representatives of the deceased Garcia can file an appeal, a motion for new trial or a petition for relief. However, despite the service of the decision by publication, the heirs or representatives of the deceased Garcia failed to avail of any remedy granted to them by law. Consequently, the defenses they allege in this petition can no longer be ventilated. Besides, a careful scrutiny of the defenses they raised deserve scant consideration and these defenses will no longer have any effect to the already final and executory August 31, 2010 Decision.

The remedy of petition for annulment of judgment is an extraordinary one and the relief it affords is equitable in

character as it strikes at the core of finality of such judgments and orders. The grounds for a petition for annulment are in themselves specific in the same way that the relief itself is. The grounds are restricted only to lack of jurisdiction and extrinsic fraud to prevent the remedy from being used by a losing party in making a complete farce of a duly promulgated decision or a duly issued order or resolution that has long attained finality. This certainly is based on sound public policy for litigations and, despite occasional risks of error, must be brought to a definite end and the issues that go with them must one way or other be laid to rest.[11]

In this case, none of the grounds for annulment of judgment exists.

In a petition for annulment of judgment based on lack of jurisdiction, petitioner must show not merely an abuse of jurisdictional discretion but an absolute lack of jurisdiction.[12] As previously observed, the RTC validly acquired jurisdiction over the person of the Garcia and thus, may accordingly rule and decide on the matters before it. Suffice it to state that the trial court did not lose jurisdiction after the demise of defendant Garcia since summons by publication were already completed at the time of his death in 2008. Since the action against him was one which survives after his death, the proceedings should be allowed to continue especially so that jurisdiction upon his person was already acquired by the trial court.

Neither are We inclined to agree with petitioners supposition that the failure of the trial court to order their substitution resulted to a denial of due process. Notably, the trial court was not informed of the death of defendant Garcia and hence, was not in a position to judiciously act on the matter. Since this particular fact was not communicated to the trial court, it could not, therefore, be expected to know or take judicial notice of the death of the defendant without the proper manifestation from his counsel[13] or his representatives. What is of utmost importance is that jurisdiction had already been conferred upon the RTC and that it validly proceeded with the trial of the case before rendering its judgment on the issues. For the same reasons, Section 16, Rule 3 of the Rules of Court[14] does not find any application in this case since the trial court had no way of knowing about the death of Garcia.

Finally, petitioners' weak attempt to introduce extrinsic fraud as an additional ground for the allowance of its petition is hardly persuasive. Fraud is extrinsic when it is employed to deprive a party of his day in court, thereby preventing him from asserting his right to property. 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.[15] Verily, the failure of petitioners to substitute the deceased-defendant and the alleged inadmissibility of the evidence proffered by the respondent Republic does not come within the ambit of extrinsic fraud, a ground for annulment of judgment.

IN VIEW OF ALL THE FOREGOING, the instant Motion for Reconsideration filed by petitioners is hereby DENIED for lack of merit. Our Resolution dated January 25, 2012 outrightly dismissing the petition for annulment of judgment for lack of substance and prima facie merit stands.

SO ORDERED.

Rosario and Bueser, JJ., concur.

[1] Rollo, pp. 213-223.

[2] Rollo, pp. 224-232.

[3] Rollo, pp. 263-264.

[4] Rollo, pp. 312-427.

[5] Rollo, pp. 280-311.

[6] Rollo, pp. 252-261.

[7] Rollo, pp. 238-251.

[8] The East Asiatic Co., Ltd., et al. vs. Court of Industrial Relations, G.R. No. L-17037, April 30, 1966.

[9] See Sheriff's Report dated July 8, 2003, Annex "D" of the Petition, Rollo, p. 85.

[10] Santos, Jr. vs. PNOC Exploration Corporation, G.R. No. 170943, September 23, 2008.

[11] Mandy Commodities Co., Inc. vs. The International Commercial Bank of China, G.R. No. 166734, July 3, 2009.

[12] Durisol Philippines Inc. vs. Court of Appeals, 377 SCRA 353, 358 (2002).

[13] Bonifacio vs. Dizon, 177 SCRA 294, 301 (1989), citing Florendo, Jr. vs. Coloma 129 SCRA 304.

[14] Paragraph 4, Section 16, Rule 3 provides:

x x x

x x x

x x x

“If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the apposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. x x x.”

[15] Alarcon vs. Court of Appeals, 323 SCRA 716, 725 (2000).

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