

INTESTATE ESTATE OF THE LATE EMILIO AGUINALDO, CRISTINA AGUINALDO SUNTAY, PETITIONER AND APPELLANT, VS. EMILIO AGUINALDO, JR., AND HON. ALFREDO CATOLICO, PRESIDING JUDGE OF THE ...

G.R. No. L-33484. May 12, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Originally a petition for review but subsequently considered by the Court as a special civil action of certiorari to set aside the resolution of the Court of Appeals in CA-G.R. No. 45994-R, entitled Cristina Aguinaldo-Suntay vs. Emilio Aguinaldo and Honorable Alfredo Catolico, Judge CFI, Branch III, Cavite City, promulgated on February 19, 1971, dismissing petitioner's appeal from several orders of the trial court as well as the resolutions denying petitioner's motion for reconsideration thereof.

In Special Proceedings No. N-705 of the Court of First Instance of Cavite, entitled Intestate Estate of the Deceased Spouses Emilio Aguinaldo and Maria Agoncillo, Emilio Aguinaldo, Jr., Administrator, upon motion of said administrator, the court, in its order of July 24, 1969, granted him authority to sell certain parcels of land of the estate of the deceased, which, however, by an amendatory order of September 26, 1969, were specifically provided must be taken only from "the one-half * * * belonging to the intestacy of the late Emilio Aguinaldo." Subsequently, other orders which speak for themselves as to the circumstances that gave rise to their issuance were issued thus:

"This is a petition dated January 12, 1970, filed by the administrator of intestacy of the late General Emilio Aguinaldo seeking approval by the Court of the sale of a certain property covered by Transfer Certificate of Title Nos. T-15388, OCT No. 463, OCT No. a-465 and OCT No. 832, all of the land records of Cavite Province.

"This sale was executed by the administrator in favor of Alice Aguinaldo Dizon of one half of the said property covered originally by order of this Court of July 24, 1969, which was later amended in an order of September 26, 1969 for the amount of P192,000.00.

"The said petition being in accordance with the said previously issued order of this Court for the sale of the same property in order to procure funds for the payment of the inheritance taxes, realty taxes and other obligations of the deceased Emilio Aguinaldo, same is hereby approved.

"SO ORDERED.

"Given in open Court at Cavite City, this 19th day of January, 1970." (Annex C, Rollo, p. 61)

"Before this Court is a pleading entitled 'Urgent Manifestation and Motion,' dated February 6, 1970, submitted for its consideration today.

"As regards the urgent manifestation, let it stay as such for there is nothing to provide. As regards the motion

with prayer that the order of this Court dated January 19, 1970, be reconsidered and set aside and that the motion for reconsideration dated October 9, 1969, be heard and resolved, it has something to do with an authority granted by this Court for the administrator to sell certain property in order to procure enough funds to pay pending obligations of the intestacy. This authority was granted the administrator in an order of July 24, 1969 and in accordance therewith the said administrator has sold a certain property which is already registered with the register of deeds and title was cancelled, and in lieu thereof a transfer certificate of title was issued to the buyer, and this sale is the object of certiorari proceedings by one of the persons who wanted to buy and actually did offer a price for the said property which case is pending with the Court of Appeals now.

"As regards the motion for reconsideration on the part of Cristina Aguinaldo Suntay, the said motion for reconsideration and petition to be heard is hereby rendered ineffective in that the sale has already been consummated.

"As regards the prayer for the reconsideration of the order of this Court dated January 19, 1970, approving the sale, inasmuch as the same has already been consummated and actually registered with the Register of Deeds, the same may not be granted.

WHEREFORE, said motion for reconsideration is hereby denied.

"SO ORDERED.

"Given at Cavite City, this 18th day of February, 1970." (Annex D, Rollo, pp. 62-63)

"After the prayer denying the double-barrelled motion presented by counsel movant dated February 6, 1970, the same counsel, in order to gain time, verbally sought the reconsideration of the order of denial upon the ground that he will have only one day to file the necessary petition attacking the validity or propriety of said order, and in order to place the legal issues on the record, the said verbal petition for reconsideration is hereby denied.

"SO ORDERED.

"Given in open Court at Cavite City this 18th day of February, 1970." (Annex E, Rollo, p. 64)

Against these five orders, a petition for review was filed with this Supreme Court in G.R. No. L-31659 alleging:

"The lower Court, presided over by the respondent Judge, acting as an administration court, had no power or jurisdiction to authorize the sale of the properties claimed by your petitioner; thus, it grievously erred when it did authorize said sale and subsequently approved the same, before the question of title over the contested properties could be determined in a separate action. (1st Assignment of Error)

"Assuming, for argument's sake, that the lower court had power or jurisdiction to grant the estates' administrator authority to sell adversely claimed properties, it nonetheless palpably erred in ordering the sale and confirming the same without complying with the elementary but mandatory requirements of Rule 89, Section 7 of the Rules of Court." (2nd Assignment of Error)

Evidently because the said appeal necessarily involved the factual issue of whether the properties authorized to be sold belong to the intestate estate of the deceased Emilio Aguinaldo or to his daughter Cristina Aguinaldo-Suntay, the Court issued the following resolution:

"L-31659 (Cristina Aguinaldo Suntay vs. Emilio Aguinaldo Jr., et al.) — Considering the allegations thereof, the issues raised and the arguments adduced in the Petition for Review on Certiorari of the orders of the First Instance of Cavite, Branch III, THE COURT RESOLVED to refer the petition to the Court of Appeals."

It is not disputed that thereafter the following proceedings took place:

"6. Acting on the referral, the Honorable Court of Appeals (FIFTH DIVISION), on August 19, 1970, issued a Resolution giving due course to the Petition and requiring respondents to answer (not to file a motion to dismiss) the Petition.

"A true and correct copy of this Court of Appeals' Resolution is hereto attached and made an integral part hereof as Annex 'F'.

"7. On September 14, 1970, respondents appellees filed their answer to the Petition. A true and correct copy of this Answer is hereto attached to form an integral part hereof as Annex 'G'.

"8. In a Resolution dated October 21, 1970, the Honorable Court of Appeals set the case for 'hearing on the merits' on November 23, 1970, upon an ex-parte motion of counsel for respondent-appellee Emilio Aguinaldo, Jr.

"A true and correct copy of this Resolution is hereto attached to form an integral part hereof as Annex 'H'.

"9. At the hearing of November 23, 1970, the Honorable Court of Appeals resolved to grant the verbal manifestation of both counsel that they be allowed to file a memorandum in lieu of oral argument. After expiration of the periods therein granted, the case would be deemed submitted for decision.

"A true and correct copy of this November 23, 1970 Resolution is hereto attached to form an integral part hereof as Annex 'I'.

"10. On January 28, 1971, petitioner-appellant filed a Manifestation with the Honorable Court of Appeals waiving her right to submit a memorandum in lieu of oral argument in support of her Petition.

"A true and correct copy of said Manifestation is hereto attached to form an integral part hereof as Annex 'J'.

"11. A Counter-Manifestation and Urgent Motion for Immediate Resolution of case dated February 2, 1971 was filed by the respondents-appellees whereby they similarly submitted the case for decision without any memorandum.

"A true and correct copy of this counter-manifestation is hereto attached to form an integral part hereof as Annex 'K'.

"12. On February 19, 1971, the Honorable Court of Appeals passed the questioned Resolution, dismissing the petition for review on certiorari for 'not being sufficient in form and substance' (Annex 'A' of this Petition).

"13. By Resolution of the Honorable Court of Appeals, dated March 24, 1971, petitioner-appellant was given up to March 29, 1971 within which to file her Motion for Reconsideration.

"A true and correct copy of this Resolution is hereto attached to form an integral part hereof as Annex 'L'.

"14. On March 29, 1971, petitioner-appellant filed her motion for reconsideration of the Honorable Court of Appeals' February 19, 1971 Resolution.

"A true and correct copy of this Motion for Reconsideration is hereto attached to form an integral part hereof as Annex 'M'.

"15. Under date March 31, 1971, respondents-appellees filed their Opposition to the said Motion for Reconsideration.

"A true and correct copy of said opposition is hereto attached to form an integral part hereof as Annex 'N'.

"16. On April 14, 1971, the Honorable Court of Appeals promulgated a Resolution denying petitioner-appellant's Motion for Reconsideration (Annex 'B' of this Petition)."

The simple question that arises from all the foregoing is, in the light of the circumstances related above, was it legally proper for the Court of Appeals to have dismissed petitioner's appeal in CA-G.R. No. 45944 only because said petitioner had not perfected her appeal by duly filing and securing the approval of the corresponding record on appeal, appeal bond and notice of appeal, as required by Sections 3 to 9 of Rule 41 of the Rules of Court? In the premises, We do not hesitate to rule that the dismissal of petitioner's appeal is not in accordance with law and, what is more, it is inconsistent with the fundamental tenet of procedural law that technicalities of form must be overlooked when the best interests of justice so require, particularly when there is no express statutory provision or rule of court clearly applicable being violated.

The most important point to consider in this case is that petitioner first appealed to this Supreme Court evidently in the belief that her appeal involved purely questions of law. It must be conceded that her assumption was in good faith, if only because the principal complaint she had against the trial court was that it had authorized the sale of property involved in the intestate proceeding notwithstanding that petitioner had made representations, in her motion for reconsideration of the order approving the sale, that she was claiming the property as her own by virtue of a sale to her by the deceased, her own father, and the only observation being made against such posture was that her claim of ownership could, anyway, be resolved in a separate appropriate proceeding. But this Court, upon consideration of the allegations in her petition, took a different view, and, as already stated, opined that the ultimate resolution of her contention against the actuations of the trial court calls for the determination of the fact of ownership, and, accordingly, referred her appeal to the Court of Appeals. In other words, this is a case plainly within the contemplation of Section 31 of the Judiciary Act providing as follows:

"SEC. 31. Transfer of cases from Supreme Court and Court of Appeals to proper court. – All cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it has originally been brought before it."

In the very recent case of *Sonora vs. Court of Appeals*, G.R. No. L-33095, promulgated April 19, 1972, We held that:

"* * * The law has not overlooked the possibility that appeals belonging to the appellate jurisdiction of this Court may be actually taken to the Court of Appeals and vice-versa and has accordingly specifically provided therefor, to the end that the interests of justice may not suffer merely because of a mistake of an appellant or of the trial court in transmitting the appeal to the wrong court. Besides, it is quite absurd for the Court of Appeals or this Court to dismiss an appeal that is not properly within its respective appellate jurisdiction. Thus, under Section 31 of the Judiciary Act, 'all cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it had originally been brought before it.' Indeed, in dismissing outright petitioners' appeal, the Court of Appeals acted in complete disregard of the unequivocal injunction of Section 3 of Rule 50 of the Rules of Court that '(w)here the appealed case has been erroneously brought before the Court of Appeals, it shall not dismiss the case, but shall certify the case to the proper court, with a specific and clear statement of the grounds therefor.'"

Unfortunately, and precisely even after the approval of Republic Act 5440, relied upon by the Court of Appeals in its impugned resolution, no law has been enacted by Congress nor has any rule been promulgated by the Supreme Court outlining definitely the procedure to be observed in instances of appeals "erroneously brought" to the Supreme Court or the Court of Appeals, beyond the injunction of Section 3 of Rule 50, precisely the rule on DISMISSAL OF APPEAL that "Where the appealed case has been erroneously brought to the Court of Appeals (or to the Supreme Court), it shall not dismiss the appeal, but shall certify the case to the proper court." The rule, of course, goes further to require that the certifying court should make "a specific and clear statement of the grounds therefor."

In this connection, and in the context of the proceedings involved in this case, it must be borne in mind that

notwithstanding that Republic Act 5440 established a different procedure for appeals from decisions of the courts of first instance to the Supreme Court in cases within the latter's appellate jurisdiction, that is, review by certiorari from those to the Court of Appeals, which has remained to be by the ordinary procedure of appeal by writ of error, with record on appeal, appeal bond and notice of appeal, neither Congress nor this Supreme Court has yet clearly provided for the contingency involved in the case at bar, namely, a case wherein a petition for review by certiorari has been timely filed with the Supreme Court and the Court certifies or sends the same to the Court of Appeals under the authority of Section 31 of the Judiciary Act, hence, there is no known or set procedure as to what should be done or what steps should be taken either by the Court of Appeals or by the appellant subsequent to and as a consequence of such certification.

It is a matter of judicial notice that, as decreed by Us in the above-mentioned case of Sonora, despite the length of time that has elapsed since the passage of Republic Act 5440, because of the mistake of lawyers, abetted or, at least, not corrected by the trial courts, appeals still keep on coming to this Supreme Court by records on appeal approved by the corresponding trial judges, but never yet has the Court dismissed any of said appeals just because of such error of form. Giving allowance to the possibility that the new legislation has not generally reached the knowledge of the bar, We have invariably accepted said appeals, with no other imposition upon the appellant than for the said party to file the corresponding petition for review by certiorari within a specified period, provided the appeal by notice of appeal, appeal bond and record on appeal had been taken on time. This liberality, which, to be sure, We have already announced in Sonora We will soon withdraw, is dictated by the equitable and just consideration that no party should be denied the right to appeal on account of an error of form not directly violative of any clear provision of the law or the rules.

Herein lies the fault in the questioned resolutions of the Court of Appeals in the case at bar. Oblivious of the considerations that have motivated the considerate attitude of the Supreme Court just referred to, the Court of Appeals failed to avail of its authority found in Section 6 of Rule 135, which provides thus:

"SEC. 6. Means to carry jurisdiction into effect. – When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears conformable to the spirit of said law or rules."

Very little reflection is needed to realize that, under this provision, it was incumbent upon the Court of Appeals, the moment it received the certification from the Supreme Court of the appeal of the petitioner, to remand the case to the court of origin for the completion of the reglementary formalities for the perfection of her appeal to that court. Surely, the Court of Appeals cannot blame petitioner for unconditionally submitting her appeal for its resolution after she was made to undergo all the proceedings noted in the statement of facts at the beginning of this opinion. The observation of counsel for respondent that the petitioner had impliedly agreed that her appeal be considered by the Court of Appeals as a "simple certiorari," hence that Court rightly held that certiorari cannot take the place of appeal, is utterly baseless, it appearing from the main resolution itself now under scrutiny that the Court of Appeals referred to the proceeding before it as "a petition for review by certiorari." Of course, the Court of Appeals is correct in holding that appeals to it cannot be done by such a petition except in appeals from decisions rendered by the courts of first instance in the exercise of their appellate jurisdiction over cases coming from municipal courts, but to hold at the same time that petitioner's appeal should be dismissed outright is, as already explained, to make petitioner suffer for a procedural faux pas not entirely and exclusively of her own making, and certainly, not in bad faith. Needless to say, the Court is animated in this case by the same considerations it took into account in Sonora.

As to the point raised by private respondent that the resolutions in question cannot be considered as constituting a judgment of the Court of Appeals from which an appeal may be taken to this Court under Rule 45, it is to be observed that said resolutions directed the dismissal of petitioner's appeal, and for all intents and purposes, such dismissal is not less than a judgment affirming in toto the appealed judgment of the trial court. The fact that this Court has considered petitioner's present remedy as an original action of certiorari under Rule 65 should not be taken as an indication that respondent's contention is well taken. Under its supervisory authority, it has been the practice of the Court to consider petitions for review filed under Rule 45 as original certiorari actions under Rule 65 whenever by so doing a more expeditious and prompt determination of the case is feasible. In this manner, the interests of justice can better be served, without regard to technicalities of procedure.

Likewise, the contention of private respondent that petitioner's present remedy is frivolous and dilatory, since, anyway, "her ultimate objective, which is to establish the validity of the alleged 'Kasulatan' in her favor, could still be attained in other incidents in the intestate proceeding in the lower court" is at the most off-tangent. As We see petitioner's position, she is not seeking to establish in said intestate proceeding the validity of the "Kasulatan"; what she is insisting on is that the lands in question should not be allowed to be sold until after her claim of ownership thereof has been settled in an appropriate proceeding. And, of course, contrary to the view of private respondent, such pose of petitioner involves the jurisdictional question of whether or not the trial court had authority to permit the administrator to sell property allegedly belonging to the estate of the deceased after it was brought to its attention that another party is claiming ownership thereof as against the estate. But this point, We do not have to pass upon now; it is precisely the Court of Appeals that should rule on it, after finding that there was indeed a "Kasulatan" or deed of sale in favor of petitioner. All that We decide here is that the Court of Appeals erred in dismissing petitioner's appeal in CA-G.R. No. 45944 and that instead of dismissing the same, the appellate court should have returned the case to the court of origin with instructions to determine whether or not the petition for review in G.R. No. L-31659 was filed within the reglementary period, and, in the affirmative, to have appellant submit the corresponding notice of appeal, appeal bond and record on appeal and perfect her appeal, after which the case should be reelevated to the appellate court for the appropriate appellate proceeding, unless, on the basis of the record as it stands, with all the pleadings, motions and other papers filed by the parties, the Court is satisfied that all the necessary information needed as basis for a proper decision are already before it and a record on appeal can be dispensed with, in which event, to save time and without causing prejudice and injustice to any party, the appellate court should already proceed to decide petitioner's appeal on its merits.

ACCORDINGLY, the resolutions of the Court of Appeals herein in question are set aside, and this case is returned to the Court of Appeals for further proceedings in line with the above opinion, with costs against private respondent.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Fernando, and Antonio, JJ., concur.

Castro, Teehankee, and Makasiar, JJ., concur in the result.

Concepcion, C.J., on official leave.

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