

**RODOLFO P. GONZALEZ AND LUZ DIZON-GONZALEZ, PETITIONERS,
VS. HON. REGINA ORDOÑEZ-BENITEZ, JUDGE OF THE JUVENILE
& DOMESTIC RELATIONS COURT, MANILA, AND SALVADOR R.
GONZALEZ, RES...**

G.R. No. L-42514. January 25, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

Rodolfo P. Gonzalez was formerly married to Carmen Rojas. She bore him four (4) children, namely: Salvador, Eduardo, Ramon and Pacita. Carmen Rojas died on May 2, 1937.

Sometime later, Rodolfo P. Gonzalez married Dr. Luz Dizon. Two (2) children were begotten of this second marriage, namely: Maria Luisa and Isabel.

On November 11, 1974 Rodolfo P. Gonzalez and his second wife executed an "Agreement for Dissolution of Conjugal Partnership and for Establishment of Separation of Property," for the declared purpose of avoiding "confusion and/or differences among the two sets of heirs (of said Rodolfo Gonzalez) in the settlement of the estates of the said spouses in case of death." They then filed a petition with the Juvenile & Domestic Relations Court of Manila for approval of their agreement, entitled "In the Matter of the Voluntary Dissolution of Conjugal Partnership," and which was docketed as Civil Case No. E-01680.[2] Rodolfo P. Gonzalez's children by his first marriage moved for, and were granted leave, to intervene in the case.[3]

On March 4, 1975 Salvador R. Gonzalez, the eldest of the four children of the first marriage, instituted in the same Court proceedings to place under guardianship the property of his father, Rodolfo P. Gonzalez, grounded on the latter's alleged incapacity "to manage and direct his financial and ownership status" resulting from the deterioration of his mental faculties on account of illness and advanced age. The petition further averred that prejudice would be caused to the children of the first marriage ***."

" ... in the event that (a) capital of the other will be considered conjugal property of the second marriage, (b) conjugal property of the second marriage will be considered paraphernal property of the second wife, (c) capital of the husband and conjugal property of the second marriage will be disposed of or transferred to the children of the second marriage through fictitious or simulated contracts in fraud of the inchoate hereditary rights of the children of the first marriage, (d) capital of the father or the conjugal property of the second marriage will be sold to third parties and the proceeds thereof donated to the second wife or children of the second marriage **."

The case was docketed as Sp. Proc. No. C-00985.

On May 4, 1975, Rodolfo P. Gonzalez and his wife drew up a contract for the sale of two parcels of land situated in Jose Batute Street and United Nations Avenue in favor of Helen Grace Silvestre and Rica Marie Silvestre. The lots were covered by Transfer Certificates of Title Numbered 6803 and 6802 issued in their names, and were

subject of first mortgages held, respectively, by the Philippine Trust company and the Philippine National Bank. It appears however that the mortgagee banks were not willing to accede to the assumption by the vendees of the spouses' mortgage obligations. What the vendor spouses did, on July 16, 1975, was to cause annotation of the sales as adverse claims on the corresponding certificates of title.

Salvador R. Gonzalez himself caused notices of lis pendens to be annotated sometime in September, 1975 on the spouses' titles not only over the two lots above described, but also over other property situated in Rizal Province — TCT No. 365539, Rizal, in the names of the Gonzalez Spouses and the Spouses Trinidad de la Peña and Aurea Dizon de la Peña — and in Cavite Province — TCTs No. T-1144 and No. T-1145, Cavite, in the name of Luz Dizon-Gonzalez, married to Rodolfo P. Gonzalez, and denominated "paraphernal property." His requests for annotation were based on the pendency of the guardianship proceeding involving the property of Rodolfo P. Gonzalez (Sp. Proc. No. C-00985), and this Court's decision in *Diaz v. Perez*, L-12053, May 30, 1958 (103 Phil. 1023).

Under date of October 17, 1975, Rodolfo P. Gonzalez filed a petition for cancellation of said notices of lis pendens.[4] He argued that

1) the petition for guardianship, ostensible basis of the notices of lis pendens, did "not involve title to or possession of any of the properties of Rodolfo P. Gonzalez" since he had "no exclusive property of his own and whatever assets he has are held in conjugal partnership with his wife, Dra. Luz Dizon-Gonzalez," and hence, said notices could not be justified by either the Torrens Act or the Rules of Court;[5]

2) the property covered by TCT No. 6802 and 6803 had already been sold for value in good faith to purchasers who had earlier registered adverse claims thereto;[6]

3) the annotations of the notices of lis pendens had been made merely to harass and molest the Gonzalez Spouses who had thereby been prevented from dealing with their properties, causing them irreparable injury, "especially considering that Dr. Luz Dizon-Gonzalez is engaged in the buying and selling of real estate as a major means of ** livelihood;"[7]

4) *Diaz v. Perez* (103 Phil. 1023) involved substantially different facts,[8] and could not be invoked as authority to justify the annotation of the notices of lis pendens in question, the "more analogous situation" being that in *Garcia v. Vasquez*, 32 SCRA 489 (1970) in which the following pronouncement had been made, viz.:

" * *. In short, the issue in controversy there (in the case relied upon as basis for the notice of lis pendens) is simply the fitness or unfitness of said special administratrix to continue holding the trusts; it does not involve or affect at all the title to, or possession, of, the properties covered * *. Clearly, the pendency of such case (L-26615) is not an action that can properly be annotated in the record of the titles to the properties.";

5) "the said spouses are, while they are alive, entitled to exercise full right of dominion over their conjugal assets and should not be deprived (or restricted in the exercise) of the same especially at the instance of those who have no present existing right over said properties, such as the petitioner (Salvador R. Gonzalez), his brothers and sisters."[9]

Salvador R. Gonzalez opposed the petition for cancellation of the notices of lis pendens.[10] While conceding that "a guardianship proceeding is not expressly included in the enumeration of cases (in Act No. 496 and the Rules of Court) where a notice of lis pendens may be made," he averred that such a proceeding "is not excluded, expressly or impliedly, from the coverage of said laws," and there was nothing in said laws "from which it may be inferred that the enumeration of cases therein is meant to be exclusive;" and *Diaz v. Perez*, supra, had precisely sustained the propriety of notices of lis pendens in guardianship cases, in the same manner that they had been held to be

"proper in receivership proceedings involving realty, and in lunacy proceedings, situations closely akin to ** (guardianship)." Quoting from Diaz, Salvador asserted that the annotations of lis pendens were "a proper cautionary measure which the courts should be slow to disturb, unless the petition for guardianship was prima facie unconvincing, or was not made in good faith, or ... the pendency of guardianship proceedings may not be considered as lis pendens affecting the realties of the person allegedly incompetent."

After Rodolfo P. Gonzalez had filed a "Reply to Opposition to Petition for Cancellation of Lis Pendens,"[11] and Salvador, a Rejoinder thereto — which latter pleading contained averments accusing Rodolfo's second wife, Luz Dizon-Gonzalez, of attempting to deprive her husband of his properties through fraud and undue influence,[12] the Juvenile & Domestic Relations Court promulgated an Order on November 7, 1975, denying the petition for cancellation of October 17, 1975 on the ground that "(a)fter hearing counsel, the Court finds it has not been established that the purpose of the notice of lis pendens is merely for molesting the proposed ward and that it is not necessary to protect the rights of petitioners, considering especially, the fact that efforts are being made to dispose of some properties pertaining to the proposed ward." [13]

On December 8, 1975 a motion was filed seeking (1) leave for Luz Dizon-Gonzalez to intervene in Sp. Proc. No. 00985, and (2) reconsideration of the Order of November 7, 1975.[14] This was opposed by Salvador R. Gonzalez,[15] after which the Court rendered an Order on December 23, 1975, allowing Luz Dizon Gonzalez to intervene, but denying the motion for reconsideration nothing meritorious therein having been found.[16]

The Gonzalez spouses have come to this Court assailing the Orders of respondent Court denying the petition for cancellation of lis pendens and the motion for reconsideration as having been rendered with "grave abuse of discretion amounting to want or excess of jurisdiction," and praying for "the cancellation by the respective Registers of Deeds of the Notices of Lis Pendens (in question)."

In the proceedings at bar, the Gonzalez Spouses no longer assert their earlier theory that the rule on notices of lis pendens does not apply to guardianship cases. The question has in any case been settled by Diaz v. Perez, supra.

What they allege is that the estate of Carmen Roxas (Rodolfo's first wife) "was settled and distributed among her heirs." [17] This is however denied by Salvador R. Gonzalez who asserts that "at the time the second marriage was contracted," "the conjugal partnership of the first marriage ha(d) not yet been totally liquidated and some of the properties have been brought by Rodolfo P. Gonzalez to the second marriage." [18] Nothing in the record establishes the claim that Carmen Roxas' estate had indeed been settled. The record in fact does not indicate that satisfactory evidence in substantiation of this claim was presented in the Court a quo. What is disclosed, as the lower Court declared, is that the evidence adduced by the parties failed to establish that Salvador R. Gonzalez had caused inscription of the notices of lis pendens merely "for molesting the proposed ward," or that such inscription was not necessary to protect the rights of the petitioners (Salvador R. Gonzalez, et al.), "considering especially, the fact that efforts are being made to dispose of some properties pertaining to the proposed ward." In other words, the facts on record, in the view of the Court a quo, demonstrated the need to give constructive notice to all parties having occasion to deal with the property registered in the name of Rodolfo P. Gonzalez (and other persons) that his capacity to create any encumbrance or make any disposition of said property was suspect, and was precisely subject of inquiry in the guardianship proceeding cited in the notices of lis pendens, a need underscored by the attempts to dispose of property of the first and second marriage by the proposed ward, Rodolfo P. Gonzalez and his wife.

The children of the first marriage indisputably have an interest in the property of the first marriage, as well as in the property of the second. They have a right to allege and prove in the appropriate proceeding in the proper forum that their father, Rodolfo P. Gonzalez, had brought property acquired by him and his first wife into his

second marriage with Luz Dizon, and also that all or certain of the property acquired during said second marriage is conjugal in character. And they have the right to challenge in the appropriate proceeding in the proper forum, as they have done, their father's capacity to make dispositions of property acquired during either of his marriages. The issues necessarily involved are factual, i.e., the degree of Rodolfo P. Gonzalez' alleged incapacity; the manner and other circumstances of the acquisition of the properties during the first and second marriages; the attendance of fraud, or undue pressure or influence on any dispositions or attempts at disposition by Rodolfo P. Gonzalez of any property. Obviously, these issues cannot be resolved without evidence which, to be sure, may not be received and passed upon by this Court in the first instance. And until these issues are resolved, there is clearly a need to warn any person interested in any property titled in the name of Rodolfo P. Gonzalez, among others, of the pendency of the proceedings which might eventually result in the invalidation of any transaction made by said Rodolfo P. Gonzalez affecting such property.

Of course, as Mr. and Mrs. Rodolfo P. Gonzalez point out, "the effect of the notices of lis pendens ** are not delimited to the properties of Dr. RODOLFO P. GONZALEZ, but extend to the proprietary interests of Dra. LUZ DIZON-GONZALEZ, ** who is not personally involved in the proceedings for guardianship." This is true, but it cannot be helped, since the latter's name does in fact appear in the titles together with her husband's, and under the law, no disposition of property can be made alone by either of them.

The attempt to distinguish the case at bar from *Diaz v. Perez*, is unpersuasive. Whether the person whose property is sought to be placed under guardianship be sole owner, or co-owner of property is immaterial. If shown to be non compos mentis, any disposition made by him under either supposition would be equally defective. The argument that anyway, Mrs. Luz-Dizon Gonzalez is required by law to "concur and co-sign" and hence, there "could be no instance ** that Dr. Gonzalez might be influenced to execute deeds of transfers to his prejudice," would appear to beg the question since the accusation is that it is precisely the wife who has influenced and might continue to influence him "to his prejudice." The argument that Dr. Gonzalez needs no protection not only because he has no separate property, but also because he is not at all incompetent is also specious. Precisely, the chief issues to be determined by evidence before the Court a quo are whether or not Dr. Gonzalez is indeed incompetent, and whether or not there has been liquidation of the property of the first nuptials and the nature and character of the property acquired by either or both of the spouses of the second marriage.

WHEREFORE, the petition is DISMISSED for lack of merit, with costs against the petitioners.

SO ORDERED.

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

[1] The action at bar was originally instituted against Hon. Corazon Juliano-Agrava, then the presiding judge of the Juvenile & Domestic Relations Court of Manila. Upon her elevation to the Court of Appeals, the Court granted the petitioners' motion to substitute Judge Regina Ordoñez-Benitez for Justice Agrava in the pleadings (Resolution, Oct. 17, 1977).

[2] Rollo, p. 4

[3] Id., pp. 4-5, 76-78

[4] Rollo, pp. 23-31

[5] Id., pp. 24-27

[6] Rollo, p. 27

[7] Id.

[8] Id., pp. 28-30

[9] Id., p. 30

[10] Id., pp. 32-37

[11] Id., pp. 38-41

[12] Rollo, pp. 42-49

[13] Id., p. 50

[14] Id., pp. 51-57

[15] Id., pp. 58-60

[16] Id., p. 61

[17] Id., p. 128

[18] Id., pp. 169, 180

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