

HEIRS OF PEDRO MALIGMAT, NAMELY: EUGENIA VDA. DE MALIGMAT, ANACORITA M. JOVITA, JONIDINA M. RANIN, JOSE MAXIMO D. MALIGMAT, EVELYN M. CABALLES, ANTONIO D. MALIGMAT, HERMAN D. MA...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a Motion for Reconsideration[1] of this Court's Decision[2] promulgated on December 13, 2013, which dismissed plaintiffs-appellants' Appeal from the Order[3] dated May 31, 2011 of the Regional Trial Court, Branch 27, Gingoog City dismissing plaintiffs-appellants' complaint for judicial partition with accounting of incomes in Civil Case No. 2009-906.

On February 11, 2014, defendants-appellees filed their Opposition[4] to plaintiffs-appellants' Motion for Reconsideration. Said Opposition is hereby NOTED.

In their motion, plaintiffs-appellants reiterate their claim that the dismissal of the complaint based on res judicata is contrary to law and jurisprudence considering that such defense was not raised by the defendants-appellees in their answer; that the dismissal of the complaint based on forum shopping is likewise contrary to law and jurisprudence on the ground that such defense was not also raised by the defendants-appellees in their answer; and that the compromise agreement is not binding considering that there existed vices of consent of minors who were not represented by a court-appointed guardian at the time of the trial.

After a circumspect evaluation of these grounds relied upon by the plaintiffs-appellants, it appears that there is no strong and cogent reason for this Court to set aside its earlier Decision. The reasons and arguments set forth by the plaintiffs-appellants in their motion are undoubtedly mere reiterations of what this Court had already amply and exhaustively discussed and ruled upon in its Decision dated December 13, 2013.

A perusal of this Court's Decision dated December 13, 2013 reveals that the issues raised by the plaintiffs-appellants were already passed upon, viz:

xxx

Having established all the requisites of res judicata in the case at bench, We therefore rule that defendants-appellees cannot be deemed to have waived the defense of res judicata even if they failed to allege such defense in their answer or motion and that the court a quo was correct in considering the same motu proprio even if not raised by the defendants-appellees.

xxx

xxx. Notably, it appears on record that the defendants-appellees properly pleaded the defense of forum shopping in their motion to dismiss dated June 22, 2010. xxx.

xxx

Hence, as the defense of forum shopping was properly raised and pleaded by the defendants-appellees, the defendants-appellees cannot be said to have waived the defense of forum shopping and the court a quo did not err in properly taking into consideration the rule on non-forum shopping in dismissing the second action for partition.[5] (emphasis supplied)

Further, plaintiffs-appellants contention that the compromise agreement is not binding due to alleged vices of consent was duly passed upon by the RTC in its Order dated May 31, 2011, viz:

xxx

It is well to note that the plaintiffs never denied the existence of the October 1, 1981 Order of the CFI-Branch III. They merely claimed that some of the plaintiffs were still minor children when the Agreement to Terminate Action was executed and was approved by the Court.

This Court finds that all the plaintiffs are bound by the Agreement to Terminate Action and the Order because they all signed the Agreement to Terminate Action. Plaintiff Eugenia vda. de Maligmat, who is the mother of the plaintiffs, also signed the agreement.[6]

Consequently, the plaintiffs-appellants not having raised substantial matters, this Court finds no compelling reason to warrant the reversal of its decision. The grounds relied upon by the plaintiffs-appellants in their motion have already been carefully considered, evaluated and passed upon by this Court in the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, p. 60.

[2] Rollo, p. 47.

[3] Rollo, p. 24.

[4] Rollo, p. 65.

[5] Rollo, pp. 53-55

[6] Rollo, p. 26.

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