

TSHIATE L. UY AND RAMON UY, PETITIONERS, VS. THE COURT OF APPEALS, NATIVIDAD CALAUNAN-UY, AND THE ESTATE OF MENILO B. UY, SR., REPRESENTED BY MENILO C. UY, JR., NILDA C. UY, MEL...

G.R. No. 102726. May 27, 1994

Ponente: VITUG, J.

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VITUG, J.:

This petition for review on certiorari assails the decision, dated 23 September 1991, of respondent Court of Appeals, which has reversed the questioned order of the Regional Trial Court, Branch 58, Makati, Metro Manila.

The facts, hereunder recited, are culled from the findings of the Court of Appeals.

Private respondent Natividad Calaunan-Uy was the common-law wife of the late Menilo B. Uy, Sr., for about thirty-six (36) years. Their union bore four children - Melito, Jr., Nilda, Melvin and Merlito - all surnamed Uy. On 31 October 1990, soon after the death of Menilo Uy, Sr., herein petitioners Tshiate Uy and Ramon Uy initiated before the Regional Trial Court (RTC), Branch 65, Makati, Metro Manila, Special Proceedings No. M-2606, entitled "In the Matter of the Petition for Letters of Administration of the Estate of Menilo B. Uy, Sr." On 28 February 1991, private respondent filed a motion to hold the special proceedings in abeyance. The day before, or on 27 February 1991, private respondent filed with the RTC, Branch 58, Makati, Civil Case No. 91-573 for "Partition of Properties Under Co-ownership," against the Estate of Menilo Uy, Sr. (supposedly represented by their four children).

On the day of trial in Civil Case No. 91-573, or on 23 April 1991, the parties, upon the suggestion of the trial court, submitted a Compromise Agreement. On 24 April 1991, a judgment, based on that compromise, was rendered, and a writ of execution was issued on 15 May 1991. On 24 May 1991, petitioner Tshiate Uy filed an omnibus motion, alleging that by virtue of a Hong Kong marriage, she was the surviving legal spouse of Menilo, Sr. She prayed that she and her son Ramon Uy be allowed to intervene in the civil case, submitting at the same time their answer in intervention. The intervenors contended, among other things, that the judgment upon the compromise was a patent nullity. On 10 June 1991, the trial court issued an order allowing the intervention and setting aside the "compromise judgment." Private respondent filed a motion for reconsideration; it was denied by the trial court in its order of 08 July 1991. A petition for certiorari was filed with respondent appellate court, which, on 23 September 1991, promulgated its decision, the dispositive portion of which read:

"WHEREFORE, the petition is hereby granted and the orders of respondent court dated June 10, 1991 and July 8, 1991 are hereby SET ASIDE. No costs.

"SO ORDERED." [1]

A motion for reconsideration filed by petitioners was denied by the appellate court in its resolution of 06 November 1991.

On 02 January 1992, the instant petition for review on certiorari was filed with this Court, asserting that:

"The finding and the conclusion of the respondent Court of Appeals that Judge Zosimo Angeles of the Regional Trial Court of Makati, Branch 58, erred in setting aside the Judgment by Compromise in Civil Case No. 91-573 because the same was already final and in fact partly executed is contrary to law and jurisprudence to the effect that a Judgment void ab initio is non-existent and cannot acquire finality; and

"The finding and conclusion of the respondent Court of Appeals to the effect that the intervention of petitioner in Civil Case No. 91-573 came too late is contrary to the ruling of this Honorable Court in the case of Director of Lands vs. Court of Appeals, et al., 93 SCRA 238."[2]

The appeal has merit.

The action for partition in Civil Case No. 91-573 is predicated on an alleged co-ownership between private respondent Natividad Calaunan-Uy and deceased Menilo, Sr., of property evidently acquired during the period of their common-law relationship. The governing provisions, applicable to their case, are now found in Article 147 and Article 148 of the Family Code, considering that Menilo Uy, Sr., died on 27 September 1990, well after the effectivity of Executive Order No. 209 (The Family Code of the Philippines) on 03 August 1988. Hence -

"Art. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

"In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.

"Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.

"When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such share shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation."

"Art. 148. In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidences of credit.

"If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community or conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her share shall be forfeited in the manner provided in the last paragraph of the preceding Article.

"The foregoing rules on forfeiture shall likewise apply even if both parties are in bad faith."

Parenthetically, closely intertwined with the legal questions posed by the parties are factual issues which are yet to be determined in Special Proceedings No. M-2606 filed by herein petitioners.

Respondent Court of Appeals set aside the orders of the trial court on two points: That -

- (1) The intervention came too late, citing Section 2, Rule 12, of the Revised Rules of Court; and
- (2) The court a quo ignored the rule on finality of judgments.

Section 2, Rule 12 of the Revised Rules of Court provides:

"Sec. 2. Intervention. - A person may before or during a trial, be permitted by the court, in its discretion, to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof."

The case *Director of Lands vs. Court of Appeals*,^[3] may not be on all fours to the case at bench but the rationale behind the decision can well be applicable. Citing *Manila Railroad Co. vs. Attorney-General*,^[4] this Court held:

"It is quite clear and patent that the motions for intervention filed by the movants at this stage of the proceedings where trial has already been concluded, a judgment thereon had been promulgated in favor of private respondent and on appeal by the losing party, the Director of Lands, the same was affirmed by the Court of Appeals and the instant petition for certiorari to review said judgment is already submitted for decision by the Supreme Court, are obviously and manifestly late, beyond the period prescribed under the aforecited Section 2, Rule 12 of the Rules of Court.

"But Rule 12 of the Rules of Court like all other Rules therein promulgated, is simply a rule of procedure, the whole purpose and object of which is to make the powers of the court fully and completely available for justice. The purpose of procedure is not to thwart justice. Its proper aim is to facilitate the application of justice to the rival claims of contending parties. It was created not to hinder and delay but to facilitate and promote the administration of justice. It does not constitute the thing itself which courts are always striving to secure to litigants. It is designed as the means best adopted to obtain that thing. In other words, it is a means to an end.

"The denial of the motions for intervention arising from the strict application of the Rule due to alleged lack of notice to, or the alleged failure of, movants to act seasonably will lead the Court to commit an act of injustice to the movants, to their successors-in-interest and to all purchasers for value and in good faith and thereby open the door to fraud, falsehood and misrepresentation, should intervenors' claims be proven to be true. For it cannot be gainsaid that if the petition for reconstitution is finally granted, the chaos and confusion arising from a situation where the certificates of title of the movants covering large areas of land overlap or encroach on properties the title to which is being sought to be reconstituted by private respondent, who herself indicates in her Opposition that, according to the Director of Lands, the overlapping embraces some 87 hectares only, is certain and inevitable. The aggregate area of the property claimed by respondent covering Lot 1 and Lot 2 is 1,435,062 sq. meters which is situated in a fast-growing, highly residential sector of Metro Manila where growth and development are in rapid progress to meet the demands of an urbanized, exploding population. Industries, factories, warehouses, plants, and other commercial infrastructures are rising and spreading within the area and the owners of these lands and the valuable improvements thereon will not simply fold their hands but certainly will seek judicial protection of their property rights or may even take the law into their own hands, resulting to multiplicity of suits."

Section 7, Rule 3, of the Revised Rules of Court defines indispensable parties to be "(p)arties in interest without whom no final determination can be had of an action x x x." Even private respondents, in their complaint in Civil Case No. 91-573, have acknowledged that petitioners "claim some interest in the Estate of Menilo B. Uy, Sr."^[5] The trial court itself, in setting aside its previous judgment upon compromise, has expressed "that the intervenors have legal interest in the matter in litigation," a statement which we find hard to brush aside. In the interest of adjudicating the whole controversy, petitioners' inclusion in the action for partition, given the circumstances, not

only is preferable but rightly essential in the proper disposition of the case. It is a settled rule that without the presence of indispensable parties to a suit or proceeding, a judgment of the court cannot attain real finality.[6]

Private respondents argue that their failure to implead petitioners in the complaint for partition has been cured by the filing of petitioners' omnibus motion asking leave to intervene and attaching thereto an answer in intervention. Private respondents' overlook the fact that the motion has been filed subsequent to the judgment based upon the compromise agreement (among private respondents themselves) that did not include, and thereby cannot be held to bind, petitioners.[7]

WHEREFORE, the decision of respondent Court of Appeals is SET ASIDE and a new one is entered REINSTATING the order, dated 10 June 1991, of the trial court.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Rollo, p. 35.

[2] Rollo, pp. 13-14.

[3] 93 SCRA 238.

[4] 20 Phil. 523.

[5] Rollo, p. 38.

[6] Lozano vs. Ballesteros, 195 SCRA 681.

[7] Filamer Christian Institute vs. Court of Appeals, 190 SCRA 485.

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