

ALBERTO S. ACENAS II, PETITIONER, VS. COURT OF APPEALS, HON. ANTONIO P. SOLANO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 86, RODRIGO...

G.R. No. 107762. August 29, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

Undaunted by the decisions of the court a quo^[1] and the Court of Appeals,^[2] petitioner Alberto S. Acenas II is now before us reiterating his plea to be allowed to intervene in Civil Case No. Q-90-6250.

Civil Case No. Q-90-6250 arose from a complaint for Recovery of a Sum of Money and Damages with Prayer for Issuance of a Writ of Attachment filed by private respondent Rodrigo S. Ligon against Evelyn L. Guanzon (also known as Evelyn Lalic or Evelyn Acenas) before Branch 86 of the Regional Trial Court of Quezon City. The complaint alleged the following:

"3. Defendant ordered and obtained from plaintiff on several instances various kinds of jewelries since three (3) years ago which she paid in the form of post dated checks;

4. The business dealings of plaintiff and defendant had been normal and regular especially on payments made by defendant until November 1988 up to early 1990 when the checks issued by defendant to plaintiff by way of payment began to bound (sic) and dishonored by the banks. x x x

5. All the aforesaid checks were not encashed nor converted to cash by plaintiff since the bank accounts of defendant were all closed;

x x x x x x x x

8. Sometime last May 1990, plaintiff went to see defendant once again for collection of payment corresponding to the amounts of each of the above-listed checks. Defendant did not show up and could not be contacted any more, and can no longer be located up to the present time;

x x x x x x x x

12. Defendant's whereabouts cannot be known and according to information reaching plaintiff, defendant left for abroad obviously to avoid plaintiff and to escape liability by keeping herself beyond the reach of law;

x x x x x x x x

15. Defendant has property and/or rights and interest on property in the Philippines, among those known to plaintiff are:

- her ownership equivalent to one-half (1/2) of that certain lot and the house existing thereon covered by Transfer Certificate of Title No. 44209 of the Registry of Deeds for the Province of Rizal registered in the

name of ALBERTO S. ACENAS, JR., married to EVELYN LALIC, located at Bo. Barranca, Municipality of Mandaluyong, Metro Manila x x x;

- one (1) motor vehicle owned by defendant

x x x x x x x x x."[3]

It is undisputed from the foregoing that Evelyn Guanzon had already gone abroad when private respondent Ligon filed the aforementioned complaint. Notwithstanding such fact and in spite of the in personam character of the case, respondent Deputy Sheriff Edgardo T. Tanangco made a substituted service of the summons and the complaint by serving copies of the same to the daughter-in-law of Evelyn Guanzon at No. 49-B, San Roque St., Mandaluyong, Metro Manila, on August 9, 1990.

Shortly thereafter, on August 13, 1990, petitioner Acenas filed a motion for leave to intervene in Civil Case No. Q-90-6250. In his bid to justify intervention, petitioner alleged that the parcel of land covered by TCT No. 44209 which was sought to be attached by private respondent Ligon is his exclusive property as Evelyn Lalic (a.k.a. Evelyn Guanzon, Evelyn Acenas) does not have any interest to one-half (1/2) thereof, petitioner not being married to her.

To petitioner's chagrin, an order dated August 14, 1990 was issued granting private respondent Ligon's prayer for the issuance of a writ of attachment upon posting the P815,000.00 attachment bond. This was compounded by the fact that on August 23, 1990, petitioner's motion for leave to intervene was denied.

Meanwhile, Evelyn Guanzon was declared in default on August 31, 1990 for failure to answer. Consequently, private respondent Ligon was allowed to present his evidence ex-parte.

On September 20, 1990, the court a quo rendered judgment ordering Evelyn Guanzon to pay private respondent Ligon the sum of P815,000.00 plus legal interest thereon from date of filing of complaint until fully paid; P25,000.00 as moral damages; P20,000.00 as exemplary damages; P15,000.00 attorney's fees and the costs of the suit.

To prevent the possibility of execution over his property, petitioner filed an affidavit of third party claim on November 8, 1990. In so doing, petitioner reiterated absolute ownership over the parcel of land covered by TCT No. 44209, thus denying Evelyn Guanzon's one-half (1/2) interest thereon. After hearing was conducted on the third party claim, an order dated April 24, 1991 was issued denying the said claim and petitioner's prayer to discharge the attachment.

On August 28, 1991, private respondent filed an ex-parte omnibus motion for the process server to serve Evelyn Guanzon with a copy of the decision, which was granted in the order dated August 29, 1991. Pursuant to the order, Process Server Edmund R. Raquid served a copy of the decision on Evelyn Guanzon on October 17, 1991, through a certain Albert Adol, a person of sufficient age and discretion.

On November 11, 1991, using the return of service as basis, private respondent filed an urgent ex-parte motion to resolve the pending motion for execution.

Petitioner then went to the Court of Appeals on certiorari and prohibition with preliminary injunction to stop the trial court from issuing the writ of execution. The Court of Appeals dismissed the said petition, without prejudice to the right of petitioner to vindicate his claim in a proper action.

Hence, this petition.

The real issue to be resolved in this case is whether or not petitioner should be allowed to intervene in the case

below.

After a careful assessment of the facts of the case, we are impelled to allow, as we hereby allow, the intervention of petitioner Acenas in Civil Case No. Q-90-6250.

Rule 12, Sec. 2 of the 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.

(a) Motion for intervention. - A person desiring to intervene shall file a motion for leave of court with notice upon all the parties to the action.

(b) Discretion of court. - In allowing or disallowing a motion for intervention, the court, in the exercise of discretion, shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding.

x x x x x x x x."

As clearly stated above, to be permitted to intervene in a pending action, the party must have a legal interest in the matter in litigation, or in the success of either of the parties or an interest against both, or he must be so situated as to be adversely affected by a distribution or other disposition of the property in the custody of the court or an officer thereof. While petitioner Acenas has not shown any interest in the checks or in the pieces of jewelry in litigation, or in the success of either of the parties or an interest against both, he has, however, shown legal interest in the attached real property covered by TCT No. 44209 which is now under threat of being levied on execution and sold at public auction.

It must be recalled that at the time private respondent Ligon filed Civil Case No. Q-90-6250 against Evelyn Guanzon, the latter had already gone abroad presumably to escape liability. The court a quo acquired jurisdiction to try the case on the basis of its jurisdiction over the res, that is, the property allegedly 50%-owned by Evelyn Guanzon but which is now being claimed by herein petitioner Acenas as his exclusive property. Since the property in question served as the res which gave the court jurisdiction to try the case against Evelyn Guanzon and the same property is now being claimed by petitioner Acenas as his exclusive property, the court a quo should have been more liberal in allowing petitioner's intervention to avoid multiplicity of suits, to determine if the court's jurisdiction was validly exercised and in order that the real controversy between the parties may be threshed out, their rights determined and the case decided on the merits without unnecessary delay. This liberality should be made most manifest in the early stages of a lawsuit, especially in this case where petitioner's motion for leave to intervene was made before trial of the case,[4] thereby giving private respondent Ligon all the time allowed by law to answer and to prepare for trial.

Moreover, the claim of herein petitioner Acenas could not possibly be better threshed out in a separate proceeding as his cause of action is interwoven with the civil case filed by private respondent Ligon against Evelyn Guanzon. Petitioner's intervention is further warranted by the fact that his defense, as well as the evidence he will be presenting, will not be any different from that which he would marshal in a separate action he might file to vindicate his interest over the property in question. In admitting herein petitioner's motion for intervention, a multiplicity of suits will be avoided since the antagonistic claims of the parties will be threshed out in the same case leading towards a definitive resolution of the issue.

All this, notwithstanding, this Court cannot help but view with disfavor petitioner's deceit when, in his motion for leave to intervene, he denied being married to Evelyn Lalic who was described in TCT No. 44209 as his wife and who was his co-mortgagor in favor of Pilipinas Shell Petroleum Corporation.[5] Nevertheless, in the greater interest of justice and for the reasons herein cited, we admit petitioner's motion for intervention.

WHEREFORE, the petition is GRANTED. The assailed decision of respondent Court of Appeals in CA-G.R. No. 27566 is SET ASIDE and the court a quo is hereby ordered to allow herein petitioner to intervene in Civil Case No. Q-90-6250.

SO ORDERED.

Melo and Vitug, JJ., concur.

Feliciano, J., on leave.

[1] Under Judge Antonio P. Solano.

[2] Penned by Justice Jainal D. Rasul, concurred in by Justices Emeterio C. Cui and Segundino G. Chua.

[3] Rollo, pp. 23-24.

[4] Rollo, p. 24.

[5] CA Rollo, Annex "A" of Reply to Opposition.

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