

TRADERS ROYAL BANK, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND HEIRS OF THE LATE JOSE C. TAYENGCO, RESPONDENTS.*G.R. No. 111357. June 17, 1997*

Ponente: ROMERO, J.

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The factual aspects of this case have already been resolved by this Court in G.R. No. 63855,[1] wherein we ruled the deceased spouses Jose and Salvacion Tayengco to be the lawful owners of the properties under receivership, and G.R. No. 60076,[2] where we affirmed the validity of the appointment of petitioner Traders Royal Bank (TRB) as receiver pendente lite.

In view of these rulings, the receivership proceeding was duly terminated. Thus, TRB rendered its final accounting of the funds under receivership wherein it retained the amount of P219,016.24 as its receiver's fee, instead of turning over the entire fund to the Tayengcos. The Regional Trial Court of Iloilo, Branch 5, in an order dated July 5, 1988, approved the final accounting submitted by TRB, including the deduction of its fee from the fund under receivership.

The Tayengcos assailed said order before the Court of Appeals,[3] contending that TRB's compensation should have been charged against the losing party and not from the funds under receivership.

In resolving this issue the Court of Appeals,[4] in its decision dated February 12, 1993, ruled that TRB cannot deduct its fee from the funds under its receivership since this must be shouldered by the losing party or equally apportioned among the parties-litigants. Consequently, TRB was ordered to return the P219,016.24 to the Tayengcos, and the losing parties, Cu Bie, et al., were held solely liable for TRB's compensation.[5] TRB filed a motion for reconsideration, but this was denied by the appellate court in its resolution dated August 17, 1993.[6]

In this appeal, TRB raises the following errors allegedly committed by the Court of Appeals:

1. The Hon. IAC (should be CA) erred when it rendered the judgment and Resolution ordering the return by TRB of Receiver's Fee of P219,016.24 to the heirs of Jose Tayengco, as it reversed the Decision of the Supreme Court in the case of Jose Tayengco vs. Hon. Ilarde, TRB, et al., GR. No. 60076, which ordered the Trial Court to "settle the account of the receiver, TRB" to thereafter discharge the receiver and charged as cost against the losing party;
2. The Hon. IAC had no jurisdiction in CA-GR. 21423 and erred in knowingly taking cognizance and rendering the judgment and resolution on the issue of the payment of receiver's fee to TRB since the same subject matter was already within the jurisdiction of the Supreme Court in GR. No. 60076;
3. The Hon. IAC erred when it rendered the judgment and Resolution which reversed the final Supreme Court Decision in GR. No. 60076 on the payment of the receiver's fee to TRB as it violated the Rule on "Bar by Final Judgment".[7] (Underscoring supplied)

TRB's assignment of errors submits for resolution two vital issues: (1) Is the Court of Appeals decision dated February 12, 1993 barred by res judicata by virtue of our ruling in G.R. No. 60076 recognizing the propriety of TRB's appointment as receiver? (2) Who is responsible for TRB's receiver's fee?

With respect to the first assigned error, we are not persuaded.

The elements of res judicata are: (1) The previous judgment has become final; (2) the prior judgment was rendered by a court having jurisdiction over the matter and parties; (3) the first judgment was made on the merits; and (4) there was substantial identity of parties, subject matter, and cause of action, as between the prior and subsequent actions.^[8]

The difference between the two causes of action is unmistakable. In G.R. No. 60076, the petition was for the annulment of the trial court's order requiring Tayengco to render and submit an accounting of the rental of the buildings and apartments, while C.A. G. R. CV No. 21423 was an appeal questioning the order of the trial court authorizing the deduction by TRB of its compensation from the receivership funds. There is clearly no identity of causes of action here. Clearly, the last element of res judicata is absent in the case at bar.

Procedural obstacles aside, we now answer the principal query posed in the instant petition.

Nobody questions the right of TRB to receive compensation. Section 8, Rule 59 of the Rules of Court, however, explicitly provides for the manner in which it shall be paid for its services, to wit:

"SEC. 8. Termination of receivership; compensation of receiver.- Whenever the court, of its own motion or on that of either party, shall determine that the necessity for a receiver no longer exists, it shall, after due notice to all interested parties and hearing, settle the accounts of the receiver, direct the delivery of the funds and other property in his hands to the persons adjudged entitled to receive them, and order the discharge of the receiver from further duty as such. The court shall allow the receiver such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires." (Underscoring supplied)

It is, therefore, clear that when the services of a receiver who has been properly appointed terminates, his compensation is to be charged against the defeated party, or the prevailing litigant may be made to share the expense, as justice requires. Consequently, the trial court's order approving TRB's compensation to be charged solely against the funds under its receivership is without legal justification; hence, it was correctly reversed by the Court of Appeals.

IN VIEW OF THE FOREGOING, the decision appealed from is AFFIRMED. Costs against petitioner.
SO ORDERED.

Regalado, (Chairman), Mendoza, and Torres Jr., JJ., concur.

Puno, J., no part, due to relationship.

[1] *Cu Bie v. Intermediate Appellate Court*, 154 SCRA 599 (1987).

[2] *Tayengco v. Ilarde*, 183 SCRA 504 (1990).

[3] Docketed as CA-G.R. CA No. 21423.

[4] Javellana, J., ponente, Gonzaga-Reyes and Ynares-Santiago, JJ., concurring.

[5] Rollo, pp. 19-24.

[6] Rollo, pp. 26-30.

[7] Rollo, pp. 4-5.

[8] Ybanez v. Court of Appeals, 253 SCRA 540 (1995); Javier v. Court of Appeals, 224 SCRA 704 (1993).

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