HON. PAMPIO A. ABARINTOS, FORMER PRESIDING JUDGE, BRANCH XLV, REGIONAL TRIAL COURT OF NEGROS ORIENTAL, JOSE A. GARCIA, TOMAS GARCIA, VIRGINIA A. GARCIA AND MARIA A. DIAZ, PETITI...

G.R. No. 113070. September 30, 1999

Ponente: BUENA, J.

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BUENA, J.:

Before us is a petition for review on certiorari which seeks to reverse the decision[1] of public respondent Court of Appeals in C.A. G.R. No. 24139, dated 22 January 1993, and the resolution[2] of the Court of Appeals, dated 05 November 1993, denying petitioners' motion for reconsideration.

The dispositive portion of the assailed decision[3] of the appellate court reads as follows:

> "WHEREFORE, in the light of the foregoing disquisitions, the petition for certiorari is granted and the assailed orders of the Regional Trial Court of Negros Oriental in Civil Case 139-B, are hereby nullified and set aside. The writ of prohibition is hereby issued and respondent judge or whoever acts in his behalf in RTC to which this case is assigned is enjoined from taking further action in Civil Case No. 139-B, except to order its immediate dismissal with prejudice.
>
> SO ORDERED."

As culled from the records, the antecedents of the case, are as follows:

Petitioners and private respondents are co-owners of Arnaiz Hermanos, a hacienda consisting of several hectares of land devoted to the production and raising of sugar cane, coconut and other crops. Portions of the hacienda also serve as fishpond, salt bed and prawn farm.

Francisca Ponce De Leon along with the other private respondents owns around 64.485976% of the property while petitioners represent a total of 35.5140232%.[4]

By virtue of a special power of attorney[5], the co-owners appointed petitioner Jose Garcia, (GARCIA for short) as administrator of the property.

Petitioner Garcia, who owns a 5.91900305% share[6] and who acted as attorney-in-fact of the co-owners, wielded almost absolute power over the property. Among other acts, he decided on the crops planted; the investments made; the equipment used; the purchases done; the produce sold and the quantity, price and time to sell the produce. Moreover, he exercised full control over the funds of the co-ownership, including the distribution thereof to the co-owners.

At the outset, the co-owners took Garcia's words hook, line and sinker due to the trust and confidence reposed on the latter. With the passage of time, however, the trust and confidence waned; the respondents started to entertain doubts on the manner Garcia administered the property. The respondents wondered why they received only so

much when, in their belief, they were entitled to receive more. Likewise, they questioned the manner of distribution of profits prompting the respondents to hire the services of Petronilo S. Santos & Co., a Manila based accounting firm, to conduct an audit[7] of the books of the co-ownership.

The audit resulted to a startling discovery[8] of disbursements, expenditures, withdrawal of funds, deposits and investments which were improperly made and thus, prejudicial to the interest of the co-owners.

As a consequence of these findings, the co-owners, by virtue of resolutions[9] approved by the majority, decided to manage and operate the farm themselves, including its financial matters, and required Garcia to render a fair, true and complete accounting of the transactions entered into by him as administrator.

Eventually, the rift borne by the discovery provoked the co-owners to terminate the co-ownership and divide the property among themselves.

On 17 November 1990, after having agreed on the mechanics of the partition, the petitioners and private respondents, either personally or through duly authorized representatives, convened on November 17, 1990 and partitioned the property owned in common[10].

In the assemblage, private respondents moved that Garcia be made to account for the proceeds of the operation of the farm during his incumbency as administrator. Petitioner Garcia, however, walked out of the meeting. Notwithstanding Garcia's absence, the co-owners declared the existence of a quorum and implemented the resolution[11] which earlier revoked the special power of attorney executed in favor of Garcia.

By a majority vote of the co-owners, an action for accounting, docketed as Civil Case 9803[12] was filed against Garcia before the Regional Trial Court (RTC) of Negros Oriental.

On 23 November 1990, petitioner Garcia filed a complaint for partition[13] with ex parte appointment of receiver, docketed as Civil Case No. 139-B, before the RTC of Bais City, Branch XLV, the lone branch in said city.

On 26 November 1990, herein petitioners filed an urgent ex parte motion for appointment of receiver,[14] which failed to contain a notice of hearing. No copy of the motion was sent to the private respondents.

A day later, the presiding judge of RTC Branch XLV issued an order[15] dated 27 November 1990,[16] appointing lawyer Enrico Garcia as receiver, without any hearing subject however to the filing of a P30,000.00 bond as fixed by the court.

On 28 November 1990, lawyer Enrico Garcia complied with the order of the court by filing the necessary bond[17] and on the same date took his oath of office as receiver.[18]

Private respondents, through Ana Maria A. Diago filed with the same court a motion[19] for inhibition and recall and/or annulment of all orders issued in connection with Civil Case No. 139-B.

Eventually, lawyer Enrico Garcia, as receiver, filed on December 10, 1990, a motion ex parte[20] in Civil Case 139-B, which sought to grant him authority to withdraw funds from the bank. The motion failed to contain a notice of hearing and private respondents were not furnished with a copy thereof.

In an order[21] dated 06 December 1990, the judge denied the motion for inhibition filed by the respondents.

On 20 December 1990, the lower court denied private respondents' motion for annulment of the orders and granted the ex parte motion of the receiver, Enrico Garcia, dated 03 December 1990, which authorized the latter to withdraw the amount of P264,321.74 from the Far East Bank and Trust Company, Dumaguete City and/or from the Bank of the Philippine Islands, Bais City, Negros Oriental.

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Subsequently, in an order[22] dated 30 January 1991, the lower court granted anew the ex parte motion of the receiver Enrico Garcia, which in effect, empowered the latter to withdraw funds for the operation of the co-ownership property; to sell sugar, molasses, copra, salt and fish products and to deposit the proceeds of the sale with the bank.

On 24 July 1991, the parties entered into a compromise agreement[23] in Civil Case No. 9979 and submitted the same to the court for approval.

The compromise agreement, reads in full thus:

> "COMPROMISE AGREEMENT
> Comes now the parties duly assisted by their respective counsel unto this Honorable Court hereby submit the following compromise agreement:
>
> 1.
>
> That plaintiffs and private defendants hereby agree that the funds of the co-ownership Arnaiz Hermanos which were deposited before the Rural Bank of Bais City under the Savings Account No. 9728 can only be withdrawn upon the authority and signatures of Ana Maria A. Diago and Jose A. Garcia;
>
> 2.
>
> All other funds of the co-ownership wherever they may be found shall likewise be withdrawn only upon the authority and signatures of Mr. Jose A. Garcia and Ana Maria A. Diago; In this connection, Ana Maria A. Diago and Jose A. Garcia are hereby authorized to open and close account on behalf of the co-ownership funds in whatever bank they may deem appropriate;
>
> 3.
>
> That the parties hereby agree that whatever remaining balance of the funds of the co-ownership over and above existing and recognized obligations of the co-ownership shall be immediately distributed among the parties in accordance with their respective shares in the co-ownership, provided, however, in case of dispute among the parties as to any obligations of the partnership, the questioned amount of the disputed obligations shall remain deposited in common funds of the co-ownership and can only be withdrawn upon final resolution of the dispute or controversy;
>
> 4.
>
> All properties of the co-ownership whether real or personal which can be easily divided physically in accordance with the respective shares of the parties of the co-ownership shall be immediately distributed, as far as practicable, the subdivision plan dated 17 November 1990 which was previously agreed upon by the parties shall be respected;
>
> 5.
>
> Once the aforementioned properties is (sic) distributed to the respective parties in accordance with their respective shares, each party is free to manage, administer and enjoy his respective share;
>
> 6.
>
> The parties shall exert earnest efforts in arriving at a final settlement and partition of all the other properties, whether real or personal owned in common by them. In this connection, the parties hereby agree that they shall endeavour to achieve complete settlement of the co-ownership within 30 days from the signing of this agreement; Parties therefore set the following schedules for conference on August 03, 10, 24 and 31, 1991 in

the morning and afternoon at the office of the SDD & Co.

7.

Pending final winding up of the affairs of the co-ownership, the parties hereby agree that whatever properties remaining of the co-ownership shall be jointly administered by Ana Maria A. Diago and Jose A. Garcia;

8.

All other claims and counterclaims of the parties in connection with the above-entitled case are hereby waived.

WHEREFORE, it is most respectfully prayed that judgment be rendered on the basis of this compromise agreement.

Dumaguete City, Philippines, July 24, 1991.

Plaintiffs by:
(Sgd)
Jose A. Garcia

Defendants by:
(Sgd.)
Ana Maria A. Diago"

Accordingly, the compromise agreement was approved by the RTC of Dumaguete City, Branch XLII, in an order,[24] dated 25 July 1991, the dispositive portion of which declares:

"That the aforestated compromise agreement having been executed in accordance with law and not contrary to public policy and moral, the same is hereby approved and judgment is hereby rendered in accordance herewith without pronouncement as to cost.

SO ORDERED.

July 25, 1991, Dumaguete City, Philippines.
(Sgd.)
Jesus L. Tabilon
Judge"

Herein private respondents then brought before the Court of Appeals a petition for certiorari and prohibition with prayer for preliminary injunction and/or temporary restraining order, docketed as C.A. G.R. No. 24139, which sought to annul or set aside the lower court's orders dated 27 November 1990; 06 December 1990; 20 December 1990 and 30 January 1991, in Civil Case 139-B.

In granting the petition for certiorari and prohibition filed by private respondent, the Court of Appeals declared[25]:

"After carefully reviewing the records of this case, We perceive the following important data: (1) that ex parte motions are mere scraps of papers (Manila Surety Co. vs. Bath Construction & Co., L-16636, June 24, 1965) and should not have been acted upon; (2) that a motion to dismiss Civil Case No. 139-B is so important as to be wrongfully ignored by mere ex parte motions; (3) that a question of inhibition involves an important question of faith in the administration of justice as to be easily ignored or cast aside; (4) that the absence of notice or opportunity to be heard violates the fundamental principle of due process and constitutes grave abuse of discretion by the respondent judge amounting to lack of or excess of jurisdiction; and (5) that since partition of the property of the decedent's 'Hacienda' has already been agreed upon by the parties, Civil Case No. 139-B is inappropriate and baseless and should have been dismissed outright."

Aggrieved by the decision, petitioner filed a motion for reconsideration dated 19 February 1993 which the appellate court denied for lack of merit[26]

Hence, this petition, wherein the following errors[27] were ascribed to the Court of Appeals:

> ASSIGNMENT OF ERRORS
>
> I.
>
> The Honorable Court of Appeals erred when it granted the respondents' petition for certiorari and nullified and set aside the assailed orders of the lower court because:
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> 1.
>
> There was no grave abuse of discretion when the assailed orders were issued.
>
> 2.
>
> The respondents' resort to mere procedural technicalities did not serve the highest interest of substantial justice.
>
> 3.
>
> The respondents were afforded due process before the assailed orders were issued.
>
> 4.
>
> The respondents' motion to dismiss was not wrongfully ignored by mere ex parte motions.
>
> II.
>
> The Honorable Court of Appeals erred in issuing the writ of prohibition and enjoining the presiding judge of the lower court from taking further action in Civil Case 139-B except to order its immediate dismissal with prejudice because:
>
> 1.
>
> The issuance of the writ of prohibition in effect had decided Civil Case 139-B on the merits thereby denying petitioners their day in court.
>
> 2.
>
> The parties had not even started to present evidence in Civil Case No. 139-B before the lower court.

The core of the controversy centers on the effect of the compromise agreement entered into by the parties and approved by the court, on the action for partition with ex parte appointment of receiver, docketed as Civil Case No. 139-B filed by herein petitioner Jose Garcia.

As to the substantive issues raised, petitioners urge that the issuance of the writ of prohibition by the appellate court in effect resolved the merits of Civil Case No. 139-B, thereby denying petitioners their day in court.

We are not impressed with petitioners' contention.

Assuming that the parties in Civil Case No. 139-B had yet to adduce evidence before the lower court, as alleged by petitioner Jose Garcia, Civil Case No. 139-B is nonetheless rendered moot in view of the judicially sanctioned compromise agreement.

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Under Article 2028 of the Civil Code, a compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. A judicial compromise has the force of law and is conclusive between the parties.[28] Once an agreement is stamped with judicial approval, it becomes more than a mere contract binding upon the parties, and having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any other judgment.[29]

Applying the clear provisions of law and jurisprudence in this jurisdiction, the compromise agreement entered into between the parties, as represented by Jose Garcia on the part of the plaintiffs (herein petitioners) and Ana Maria Diago, on the part of the defendants (herein private respondents), constitutes and operates as a partition that effectively terminated the relation of co-ownership over the properties contemplated thereunder.

It is settled that every act which is intended to put an end to indivision among co-heirs and legatees or devisees is deemed to be a partition, although it should purport to be a sale, an exchange, a compromise, or any other transaction.[30]

Significantly, as early as 17 November 1990, the parties already convened, agreed on the mechanics of the partition and apportioned the property owned in common. Notwithstanding such glaring fact, petitioner Jose Garcia decided to file a complaint for partition with ex parte appointment of receiver docketed as Civil Case No. 139-B. Eventually though, a compromise agreement was forged on 24 July 1991 between the co-owners, as duly represented by petitioner Garcia on the part of the plaintiffs and private respondent Diago on the part of the defendants.

A perusal of the compromise agreement in the instant case would reveal that herein petitioner Jose Garcia was a signatory to the compromise partition dated 24 July 1991. The records would likewise indubitably show that the compromise partition was duly approved by the Regional Trial Court, Dumaguete City, in an order dated 25 July 1991.

Be that as it may, the partition for which Civil Case No. 139-B was filed had already been realized through the execution of the compromise agreement by the co-owners and the subsequent approval thereof by the court. Stated differently, inasmuch as the co-owners have already agreed to partition the property and in fact appointed Ana Maria Diago and Jose Garcia, as joint administrators during the winding-up period, and considering that the compromise agreement had been duly stamped with judicial approval, the pending issues in Civil Case No. 139-B have already been rendered moot and academic.

The law provides that a compromise has upon the parties the effect and authority of res judicata.[31] It is axiomatic that a decision based on a compromise agreement is immediately final and executory. A compromise agreement, once approved by final orders of the court, has the force of res judicata between the parties and should not be disturbed except for vices of consent or forgery.[32]

We see no reason to depart from the general rule in the absence of any vice of consent or forgery clearly established in this case. Indeed, compromises are generally to be favored and cannot be set aside if the parties acted in good faith and made reciprocal concessions to each other in order to terminate a case.[33]

After all, reciprocal concessions are the very heart and life of every compromise agreement.[34] To lend flesh and blood to this aphorism, the Civil Code not only defines and authorizes compromises, it in fact encourages them in civil actions.[35] Thus Article 2029 of the Civil Code expressly states that the Court shall endeavor to persuade the litigants in a civil case to agree upon some fair compromise.

Verily, the co-owners by their compromise agreement in Civil Case No. 139-B, contracted, among others, to partition the co-ownership property and to distribute it among themselves. Similarly, the co-owners authorized

Ana Maria Diago and Jose Garcia to act as joint administrators pending the final winding-up of the affairs of the co-ownership. Moreover, the parties agreed to waive their respective claims and counterclaims in connection with the case.

We therefore hold that the compromise agreement transcends its identity as a mere contract binding only upon the parties thereto. Having been approved by a court of law, it has become a judgment which is subject to execution in accordance with the Rules.

WHEREFORE, in view of the foregoing, the instant petition is DENIED for lack of merit. The assailed decision of the Court of Appeals in CA – GR. SP No. 24139 is hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Quisumbing, JJ., concur.

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[1] C.A. Decision in C.A. GR No. 24139, promulgated on 22 January 1993, penned by Justice Jainal Rasul and concurred in by Justice Emeterio Cui and Justice Pacita Canizares-Nye.

[2] Rollo p. 36

[3] Ibid., p. 34-35

[4] Ibid., p. 29

[5] Ibid., p. 29.

[6] Ibid., p. 29.

[7] Records, p.72.

[8] Rollo, p. 30.

[9] Record, pp. 98-105.

[10] Ibid., p. 106-110.

[11] Resolution No. 1, S. of 1989; O.R., P. 170.

[12] Ibid., p. 31.

[13] Record, p.35.

[14] Comment, p. 3; Rollo, p.46. Record p. 20.

[15] Comment, p. 4; Rollo, p. 47; O.R., p. 45.

[16] Hon. Judge Pampio Abarintos, presiding judge, RTC of Bais City, Branch XLV.

[17] Records, p. 51.

[18] Ibid., p. 54.

[19] Ibid., pp. 59-60.

[20] Ibid., p.121.

[21] Ibid., p.121.

[22] Ibid., pp. 241-242.

[23] Rollo, p. 133-135.

[24] Ibid., pp. 136-138.

[25] C.A. Decision; Rollo, pp. 28-35, 34-35.

[26] Resolution of the Court of Appeals promulgated on 05 November 1993; Rollo, p.36.

[27] Petition for Review on Certiorari; Rollo, p. 14.

[28] Ynson vs. Court of Appeals, 257 SCRA 411 (1996).

[29] Domingo vs. Court of Appeals, 255 SCRA 189 (1996).

[30] Sanchez vs. Court of Appeals, 279 SCRA 647 (1997).

[31] Article 2037, Civil Code.

[32] Santos vs. Dames, II, 280 SCRA 13 (1997).

[33] Amarante vs. Court of Appeals, 232 SCRA 104.

[34] Report of the Code Commission; p.154, cited in Litton vs. Court of Appeals, 263 SCRA 40 (1996).

[35] Osmeña vs. Commission on Audit, 238 SCRA 463 (1994).

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