

**HEIRS OF JOSE SY BANG, HEIRS OF JULIAN SY AND OSCAR SY,
PETITIONERS, VS. ROLANDO SY, ROSALINO SY, LUCIO SY, ENRIQUE
SY, ROSAURO SY, BARTOLOME SY, FLORECITA SY, LOURDES SY,
JULIE...**

G.R. No. 114217. October 13, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court are two Petitions for Review on Certiorari under Rule 45 of the Rules of Court. The first Petition, G.R. No. 114217, assails the Decision[2] dated May 6, 1993 and the Resolution[3] dated February 28, 1994 of the Court of Appeals (CA) in CA-G.R. SP No. 17686. On the other hand, the second Petition, G.R. No. 150797, questions the Decision dated February 28, 2001 and the Resolution dated November 5, 2001 of the CA in CA-G.R. SP No. 46244.

The factual antecedents are as follows:

G.R. No. 114217

On May 28, 1980, respondent Rolando Sy filed a Complaint for Partition against spouses Jose Sy Bang and Iuminada Tan, spouses Julian Sy and Rosa Tan, Zenaida Sy, Ma. Emma Sy, Oscar Sy, Rosalino Sy, Lucio Sy, Enrique Sy, Rosauro Sy, Bartolome Sy, Florecita Sy, Lourdes Sy, Julieta Sy, Rosita Ferrera-Sy, and Renato Sy before the then Court of First Instance of Quezon, Branch 2, docketed as Civil Case No. 8578.[4]

Respondents Rolando Sy, Rosalino Sy, Lucio Sy, Enrique Sy, Rosauro Sy, Bartolome Sy, Julieta Sy, Lourdes Sy, and Florecita Sy are the children of Sy Bang by his second marriage to respondent Rosita Ferrera-Sy, while petitioners Jose Sy Bang, Julian Sy and Oscar Sy are the children of Sy Bang from his first marriage to Ba Nga, and petitioners Zenaida Tan and Ma. Emma Sy are the children of petitioner spouses Jose Sy Bang and Iuminada Tan.[5]

Sy Bang died intestate in 1971, leaving behind real and personal properties, including several businesses.[6]

During an out-of-court conference between petitioners and respondents, it was agreed that the management, supervision or administration of the common properties and/or the entire estate of the deceased Sy Bang shall be placed temporarily in the hands of petitioner Jose Sy Bang, as trustee, with authority to delegate some of his functions to any of petitioners or private respondents. Thus, the function or duty of bookkeeper was delegated by Jose Sy Bang to his co-petitioner Julian Sy, and the duty or function of management and operation of the business of cinema of the common ownership was delegated by petitioner Jose Sy Bang to respondent Rosauro Sy.[7]

Herein petitioners and respondents also agreed that the income of the three cinema houses, namely, Long Life, SBS and Sy-Co Theaters, shall exclusively pertain to respondents for their support and sustenance, pending the termination of Civil Case No. 8578, for Judicial Partition, and the income from the vast parts of the entire estate

and other businesses of their common father, to pertain exclusively to petitioners. Hence, since the year 1980, private respondents, through respondent Rosauro Sy, had taken charge of the operation and management of the three cinema houses, with the income derived therefrom evenly divided among themselves for their support and maintenance.[8]

On March 30, 1981, the Judge rendered a First Partial Decision based on the Compromise Agreement dated November 10, 1980, submitted in Civil Case No. 8578 by plaintiff Rolando Sy and defendants Jose Sy Bang and Julian Sy. On April 2, 1981, the Judge rendered a Second Partial Decision based on the pretrial order of the court, dated March 25, 1981, entered into by and between respondent Renato Sy and petitioner spouses. Said First Partial Decision and Second Partial Decision had long become final, without an appeal having been interposed by any of the parties.[9]

On June 8, 1982, the Judge rendered a Third Partial Decision,[10] the dispositive portion of which reads as follows:

WHEREFORE, the Court hereby renders this Third Partial Decision:

(a) Declaring that all the properties, businesses or assets, their income, produce and improvements, as well as all the rights, interests or participations (sic) in the names of defendants Jose Sy Bang and his wife Iluminada Tan and their children, defendants Zenaida and Ma. Emma; both surnamed Sy, and defendants Julian Sy and his wife Rosa Tan, as belonging to the estate of Sy Bang, including the properties in the names of said defendants which are enumerated in the Complaints in this case and all those properties, rights and interests which said defendants may have concealed or fraudulently transferred in the names of other persons, their agents or representatives;

(b) Declaring the following as the heirs of Sy Bang, namely: his surviving widow, Maria Rosita Ferrera-Sy and her children, Enrique, Bartolome, Rosalino, Rolando, Rosauro, Maria Lourdes, Florecita and Julieta, all surnamed Sy, and his children by his first wife, namely: Jose Sy Bang, Julian Sy, Lucio Sy, Oscar Sy and Renato Sy;

(c) Ordering the partition of the Estate of Sy Bang among his heirs entitled thereto after the extent thereof shall have been determined at the conclusion of the proper accounting which the parties in this case, their agents and representatives, shall render and after segregating and delivering to Maria Rosita Ferrera-Sy her one-half (1/2) share in the conjugal partnership between her and her deceased husband Sy Bang;

(d) Deferring resolution on the question concerning the inclusion for partition of properties in the names of Rosalino, Bartolome, Rolando and Enrique, all surnamed Sy.

SO ORDERED.

On June 16, 1982, petitioners filed a Motion to Suspend Proceedings and for Inhibition, alleging, among others, that the Judge had patently shown partiality in favor of their co-defendants in the case. This motion was denied on August 16, 1982.[11]

On July 4, 1982, petitioners filed a Petition for Prohibition and for Inhibition (Disqualification) and Mandamus with Restraining Order with the Supreme Court docketed as G.R. No. 60957. The Petition for Prohibition and for Inhibition was denied, and the Petition for Mandamus with Restraining Order was Noted.[12]

On August 17, 1982, the Judge issued two Orders: (1) in the first Order,[13] Mrs. Lucita L. Sarmiento was appointed as Receiver, and petitioners' Motion for New Trial and/or Reconsideration, dated July 9, 1982 and their Supplemental Motion, dated July 12, 1982, were denied for lack of merit; and (2) in the second Order,[14] the Judge ordered the immediate cancellation of the lis pendens annotated at the back of the certificates of title in the

names of Bartolome Sy, Rosalino Sy and Rolando Sy.

On August 18, 1982, the trial court approved the bond posted by the receiver, Mrs. Lucita L. Sarmiento, Bartolome Sy, Rolando Sy and Rosalino Sy.[15]

While the Petition for Mandamus with Restraining Order was pending before the First Division of the Supreme Court, petitioners filed a Petition for Certiorari and Prohibition before the Supreme Court, docketed as G.R. No. 61519. A Temporary Restraining Order was issued on August 31, 1982, to enjoin the Judge from taking any action in Civil Case No. 8578 and, likewise, restraining the effectivity of and compliance with the Resolution dated August 16, 1982, the two Orders dated August 17, 1982, and the Order dated August 18, 1982.

On September 2, 1982, petitioners withdrew their Petition for Mandamus with Restraining Order, docketed as G.R. No. 60957.

On September 11, 1982, an Urgent Manifestation and Motion was filed by Mrs. Lucita L. Sarmiento, the appointed receiver, which was opposed by petitioners on September 24, 1982. [16]

After several incidents in the case, the Court, on May 8, 1989, referred the petition to the CA for proper determination and disposition.

The CA rendered the assailed Decision[17] on May 6, 1993, denying due course to and dismissing the petition for lack of merit. It held that Judge Puno acted correctly in issuing the assailed Third Partial Decision. The CA said that the act of Judge Puno in rendering a partial decision was in accord with then Rule 36, Section 4, of the Rules of Court, which stated that in an action against several defendants, the court may, when a judgment is proper, render judgment against one or more of them, leaving the action to proceed against the others. It found that the judge's decision to defer resolution on the properties in the name of Rosalino, Bartolome, Rolando, and Enrique would not affect the resolution on the properties in the names of Jose Sy Bang, Iluminada, Julian, Rosa, Zenaida, and Ma. Emma, since the properties were separable and distinct from one another such that the claim that the same formed part of the Sy Bang estate could be the subject of separate suits.

The CA also upheld the judge's appointment of a receiver, saying that the judge did so after both parties had presented their evidence and upon verified petition filed by respondents, and in order to preserve the properties under litigation. Further, the CA found proper the order to cancel the notice of lis pendens annotated in the certificates of title in the names of Rosalino, Rolando and Bartolome.

The Motion for Reconsideration was denied on February 28, 1994.[18]

On April 22, 1994, petitioners filed this Petition for Review on Certiorari under Rule 43 of the Rules of Court.

The Court denied the Petition for non-compliance with Circulars 1-88 and 19-91 for failure of petitioners to attach the registry receipt. Petitioners moved for reconsideration, and the Petition was reinstated on July 13, 1994.

In this Petition for Review, petitioners seek the reversal of the CA Decision and Resolution in CA-G.R. SP No. 17686 and, consequently, the nullification of the Third Partial Decision and orders of the trial court in Civil Case No. 8578. They also pray for the Court to direct the trial court to proceed with the reception of further evidence in Civil Case No. 8578.[19] In particular, petitioners allege that the CA decided questions of substance not in accord with law when it upheld the trial court's Third Partial Decision which, they alleged, was rendered in violation of their rights to due process.

Petitioners narrate that the trial court initially gave them two trial days - May 26 and 27, 1982 - to present their evidence. However, at the hearing on May 26, the judge forced them to terminate the presentation of their evidence. On June 2, 1982, following petitioners' submission of additional documentary evidence, the trial court

scheduled the case for hearing on June 8 and 9, 1982, at 2 o'clock in the afternoon "in view of the importance of the issue concerning whether all the properties in the names of Enrique Sy, Bartolome Sy, Rosalino Sy, and Rolando Sy and/or their respective wives (as well as those in the names of other party-litigants in this case) shall be declared or included as part of the Estate of Sy Bang, and in view of the numerous documentary evidences (sic) presented by Attys. Raya and Camaligan." At the June 8 hearing, petitioners presented additional evidence. Unknown to them, however, the trial court had already rendered its Third Partial Decision at 11 o'clock that morning. Thus, petitioners argue that said Third Partial Decision is void.[20]

They also question the trial court's First Order dated August 17, 1982 and Order dated August 18, 1982 granting the prayer for receivership and appointing a receiver, respectively, both allegedly issued without a hearing and without showing the necessity to appoint a receiver. Lastly, they question the Second Order dated August 17, 1982 canceling the notice of lis pendens ex parte and without any showing that the notice was for the purpose of molesting the adverse parties, or that it was not necessary to protect the rights of the party who caused it to be recorded.[21]

On May 9, 1996, Rosita Ferrera-Sy filed a Motion for Payment of Widow's Allowance. She alleged that her deceased husband, Sy Bang, left an extensive estate. The properties of the estate were found by the trial court to be their conjugal properties. From the time of Sy Bang's death in 1971 until the filing of the motion, Rosita was not given any widow's allowance as provided in Section 3, Rule 83 of the Rules of Court by the parties in possession and control of her husband's estate, or her share in the conjugal partnership.[22]

In their Comment on the Motion for Payment of Widow's Allowance, petitioners argued that Section 3, Rule 83 of the Rules of Court specifically provides that the same is granted only "during the settlement of the estate" of the decedent, and this allowance, under Article 188 of the Civil Code (now Article 133 of the Family Code), shall be taken from the "common mass of property" during the liquidation of the inventoried properties.[23] Considering that the case before the trial court is a special civil action for partition under Rule 69 of the Rules of Court, Rosita is not entitled to widow's allowance.

On September 23, 1996, the Court granted the Motion for Payment of Widow's Allowance and ordered petitioners jointly and severally to pay Rosita P25,000.00 as the widow's allowance to be taken from the estate of Sy Bang, effective September 1, 1996 and every month thereafter until the estate is finally settled or until further orders from the Court.[24]

In a Manifestation dated October 1, 1996, petitioners informed the Court that Rosita and co-petitioner Enrique Sy had executed a waiver of past, present and future claims against petitioners and, thus, should be dropped as parties to the case.[25] Attached thereto was a Sinumpaang Salaysay wherein Rosita and Enrique stated that they were given P1 million and a 229-square meter parcel of land, for which reason they were withdrawing as plaintiffs in Civil Case No. 8578.[26]

Respondents, except Enrique Sy, filed a Counter-Manifestation and Opposition to Drop Rosita Sy as a Party.[27] They said that it would be ridiculous for Rosita to give up her share in Sy Bang's estate, amounting to hundreds of millions of pesos, which had already been ordered partitioned by the trial court, to the prejudice of her seven full-blooded children. They alleged that Rosita was not in possession of her full faculties when she affixed her thumbmark on the Sinumpaang Salaysay considering her age, her frequent illness, and her lack of ability to read or write. Hence, they filed a petition before the Regional Trial Court (RTC) of Lucena City for guardianship over her person and properties. They also alleged that Enrique and some of Jose Sy Bang's children would stealthily visit Rosita in Rosauro's house while the latter was away. On one of those occasions, she was asked to affix her thumbmark on some documents she could not read and knew nothing about. They claim that Rosita has never

received a single centavo of the P1 million allegedly given her.

In their Reply to Counter-Manifestation,[28] petitioners countered that respondents failed to present any concrete evidence to challenge the Sinumpaang Salaysay. Since the same was duly notarized, it was a public document and presumed valid. They, likewise, alleged that the Counter-Manifestation was filed without Rosita's authorization as, in fact, she had written her counsel with instructions to withdraw said pleading.[29] Further, they averred that Rosita executed the Sinumpaang Salaysay while in full possession of her faculties. They alleged that Rosita intended to oppose the petition for guardianship and they presented a copy of a sworn certification from Rosita's physician that "she (Rosita) is physically fit and mentally competent to attend to her personal or business transactions." [30]

On the other hand, petitioners filed a Motion for Reconsideration of the Court's September 23, 1996 Resolution. It alleged that Rosita and Enrique executed their Sinumpaang Salaysay on August 29, 1996. However, this development was made known to the Court only on October 1, 1996; hence, the Court was not aware of this when it issued its Resolution. Petitioners prayed for the reconsideration of the September 23, 1996 Resolution and dropping Rosita and Enrique as parties to the case.[31]

In their Opposition to the Motion for Reconsideration, respondents maintained that the Court should not consider the Motion for Reconsideration. Respondents alleged that Rosita thumbmarked the Sinumpaang Salaysay without understanding the contents of the document or the implications of her acts. Respondents also tried to demonstrate that their mother would thumbmark any document that their children asked her to by exhibiting four documents each denominated as Sinumpaang Salaysay and thumbmarked by Rosita. One purported to disown the earlier Sinumpaang Salaysay. The second was a reproduction of the earlier Sinumpaang Salaysay with the amount changed to P100.00, the Transfer Certificate of Title number changed to 12343567, and the size of the property to "as big as the entire Lucena City." The third purported to bequeath her shares in the conjugal partnership of gains to Rosauro, Bartolome, Rolando, and Rosalino, while refusing to give any inheritance to Florecita, Lourdes, Julieta, and Enrique. Lastly, the fourth contradicted the third in that it was in favor of Florecita, Lourdes, Julieta, and Enrique, while disinheriting Rosauro, Bartolome, Rolando, and Rosalino. These, respondents assert, clearly show that their mother would sign any document, no matter the contents, upon the request of any of her children.[32]

The Court denied the Motion for Reconsideration on November 18, 1996.[33]

Petitioners filed a Supplement to their Memorandum, additionally arguing that the Third Partial Decision did not only unduly bind the properties without due process, but also ignored the fundamental rule on the indefeasibility of Torrens titles.[34]

G.R. No. 150797

Meanwhile, on September 30, 1996, respondents filed a Joint Petition for the Guardianship of the Incompetent Rosita Ferrera-Sy before the RTC of Lucena City, Branch 58 (Guardianship court), docketed as Special Proceedings No. 96-34. On May 19, 1997, Rosauro Sy, who sought to be named as the special guardian, filed before the Guardianship court a Motion to Order Court Deposit of Widow's Allowance Ordered by the Supreme Court.[35] Then, he filed a Motion before this Court seeking an Order for petitioners to pay Rosita P2,150,000.00 in widow's allowance and P25,000.00 every month thereafter, as ordered by this Court in its September 23, 1996 Resolution. He also prayed for petitioners' imprisonment should they fail to comply therewith.[36]

On July 8, 1997, the Guardianship court issued an Order, the dispositive portion of which reads:

WHEREFORE, Mr. Jose Sy Bang and his wife Iluminada Tan; and their children, Zenaida Sy and Ma. Emma

Sy; and Julian Sy and his wife Rosa Tan, are hereby ordered to deposit to this Court, jointly and severally, the amount of P250,000.00 representing the widow's allowance of the incompetent Rosita Ferrera Sy corresponding the (sic) periods from September 1, 1996 to June 30, 1997, and additional amount of P25,000.00 per month and every month thereafter, within the first ten (10) days of each month.[37]

Petitioners' Motion for Reconsideration was denied. Rosauro, the appointed guardian, then asked the Guardianship court to issue a writ of execution. Meanwhile, on December 10, 1997, petitioners filed a Petition for Certiorari with the CA docketed as CA-G.R. SP No. 46244 to annul the July 8, 1997 Order and October 9, 1997 Resolution of the Guardianship court.[38]

In a Decision[39] dated February 28, 2001, the CA ruled in respondents' favor, finding "nothing legally objectionable in private respondent Rosauro Sy's filing of the motion to order the deposit of the widow's allowance ordered by the Supreme Court in G.R. No. 114217 or, for that matter, in the public respondent's grant thereof in the order herein assailed. More so, when the public respondent's actions are viewed in the light of the Supreme Court's denial of petitioners' motion for reconsideration of its resolution dated September 23, 1996." [40] Thus it held:

WHEREFORE, the petition is DENIED for lack of merit and the assailed resolution dated September 23, 1996 (sic) is AFFIRMED in toto. No pronouncement as to costs.

SO ORDERED.

Their Motion for Reconsideration having been denied on November 5, 2001,[41] petitioners filed this Petition for Review[42] under Rule 45 of the Rules of Court praying for this Court to reverse the CA's February 28, 2001 Decision and its Resolution denying the Motion for Reconsideration, and to declare the Guardianship court to have exceeded its jurisdiction in directing the deposit of the widow's allowance in Special Proceedings No. 96-34.[43] They argued that the Guardianship court's jurisdiction is limited to determining whether Rosita was incompetent and, upon finding in the affirmative, appointing a guardian. Moreover, under Rule 83, Section 3, of the Rules of Court, a widow's allowance can only be paid in an estate proceeding. Even if the complaint for partition were to be considered as estate proceedings, only the trial court hearing the partition case had the exclusive jurisdiction to execute the payment of the widow's allowance.[44]

They raised the following issues:

The Court of Appeals erred in affirming the Guardianship Court's Order dated 8 July 1997, and Resolution dated 9 October 1997, in that:

I

The trial court, acting as a Guardianship Court, and limited jurisdiction, had no authority to enforce payment of widow's allowance.

II

The payment of widow's allowance cannot be implemented at [the] present because the estate of Sy Bang - the source from which payment is to be taken - has not been determined with finality.

III

The Order of the trial court purporting to enforce payment of widow's allowance unduly modified the express terms of this Honorable Court's Resolution granting it.[45]

Petitioners, likewise, question the Guardianship court's omission of the phrase "to be taken from the estate of Sy

Bang" from the July 8, 1997 Order. They interpreted this to mean that the Guardianship court was ordering that the widow's allowance be taken from their own properties and not from the estate of Sy Bang - an "undue modification" of this Court's September 23, 1996 Resolution.[46]

On January 21, 2002, the Court resolved to consolidate G.R. No. 114217 and G.R. No. 150797. The parties submitted their respective Memoranda on May 21, 2003 and June 19, 2003, both of which were noted by this Court in its August 11, 2003 Resolution.

Pending the issuance of this Court's Decision in the two cases, respondent Rosaura Sy filed, on November 11, 2003, a Motion to Order Deposit in Court of Supreme Court's Ordered Widow's Allowance Effective September 23, 1996 and Upon Failure of Petitioners Julian Sy, et al. to Comply Therewith to Order Their Imprisonment Until Compliance. He alleged that his mother had been ill and had no means to support herself except through his financial assistance, and that respondents had not complied with this Court's September 23, 1996 Resolution, promulgated seven years earlier.[47] He argued that respondents' defiance constituted indirect contempt of court. That the Guardianship court had found them guilty of indirect contempt did not help his mother because she was still unable to collect her widow's allowance.[48]

Petitioners opposed said Motion arguing that the estate from which the widow's allowance is to be taken has not been settled. They also reiterated that Rosita, together with son Enrique, had executed a Sinumpaang Salaysay waiving all claims against petitioners. Hence, there was no legal ground to cite them in contempt.[49]

On April 4, 2005, this Court granted Rosaura's Motion, to wit:

WHEREFORE, the Court finds and so holds petitioner Iluminada Tan (widow of deceased petitioner Jose Sy Bang), their children and co-petitioners Zenaida Sy, Ma. Emma Sy, Julian Sy and the latter's wife Rosa Tan, GUILTY of contempt of this Court and are collectively sentenced to pay a FINE equivalent to ten (10%) percent of the total amount due and unpaid to Rosita Ferrera-Sy by way of a widow's allowance pursuant to this Court's Resolution of September 13, 1996, and accordingly ORDERS their immediate imprisonment until they shall have complied with said Resolution by paying Rosita Ferrera-Sy the amount of TWO MILLION SIX HUNDRED THOUSAND ONE HUNDRED PESOS (P2,600,100.00), representing her total accumulated unpaid widow's allowance from September, 1996 to April, 2005 at the rate of TWENTY-FIVE THOUSAND PESOS (P25,000.00) a month, plus six (6%) percent interest thereon. The Court further DIRECTS petitioners to faithfully pay Rosita Ferrera-Sy her monthly widow's allowance for the succeeding months as they fall due, under pain of imprisonment.

This Resolution is immediately EXECUTORY.

SO ORDERED.[50]

Iluminada, Zenaida and Ma. Emma paid the court fine of P260,010.00 on April 5, 2005.[51]

Respondents, except Rosaura Sy (who had died), filed a Motion for Execution[52] before this Court on April 25, 2005. On the other hand, petitioner Rosa Tan filed a Motion for Reconsideration with Prayer for Clarification.[53] She alleged that, in accordance with Chinese culture, she had no participation in the management of the family business or Sy Bang's estate. After her husband's death, she allegedly inherited nothing but debts and liabilities, and, having no income of her own, was now in a quandary on how these can be paid. She asked the Court to consider that she had not disobeyed its Resolution and to consider her motion.

Other petitioners, Iluminada, Zenaida and Ma. Emma, also filed a Motion for Reconsideration with Prayer for Clarification.[54] They stressed that the P1 million and the piece of land Rosita had already received from Jose Sy Bang in 1996 should form part of the widow's allowance. They also argued that whatever allowance Rosita may

be entitled to should come from the estate of Sy Bang. They further argued the unfairness of being made to pay the allowance when none of them participated in the management of Sy Bang's estate; Zenaida and Ma. Emma being minors at the time of his death, while Iluminada and Rosa had no significant role in the family business.

Respondents then filed a Motion for Issuance of Order Requiring Respondents to Deposit with the Supreme Court's Cashier its Ordered Widow's Allowance^[55] and a Motion for Execution of Resolution dated April 4, 2005.^[56] Petitioners opposed the same.^[57]

On July 25, 2005, the Court issued a Resolution granting both of respondents' motions and denying petitioners' motion for reconsideration.^[58]

Petitioners Iluminada, Zenaida and Ma. Emma filed, on August 15, 2005, a Manifestation of Compliance and Motion for Clarification.^[59] They maintained that the issues they had raised in the motion for reconsideration had not been duly resolved. They argued that when this Court issued its September 23, 1996 Resolution, it was not yet aware that Rosita had executed a Sinumpaang Salaysay, wherein she waived her claims and causes of action against petitioners. They also informed this Court that, on April 17, 1998, the Guardianship court had issued an Order which recognized a "temporary agreement" based on the voluntary offer of Jose Sy Bang of a financial assistance of P5,000.00 per month to Rosita while the case was pending. Moreover, as a manifestation of good faith, petitioners Iluminada, Zenaida and Ma. Emma paid the P430,000.00 out of their own funds in partial compliance with the Court's Resolution. However, the same did not in any way constitute a waiver of their rights or defenses in the present case. They underscored the fact that the allowance must come from the estate of Sy Bang, and not from Jose Sy Bang or any of the latter's heirs, the extent of which remained undetermined. They further asked the Court to adjudicate the liability for the widow's allowance to be equally divided between them and the other set of petitioners, the heirs of Julian Sy.

On August 30, 2005, respondents filed a motion asking this Court to issue an Order for the immediate incarceration of petitioners for refusing to comply with the Court's resolution.^[60] They aver that the period within which petitioners were to comply with the Court's Resolution had now lapsed, and thus, petitioners must now be incarcerated for failure to abide by said Resolution. They likewise asked the Court to refer petitioners' counsel, Atty. Vicente M. Joyas, to the Integrated Bar of the Philippines (IBP) for violations of the Canons of Professional Responsibility or to declare him in contempt of court. They alleged that despite the finality of the Court's denial of petitioners' motion for reconsideration, Atty. Joyas still filed a Manifestation with compliance arguing the same points. Further, Atty. Joyas is not petitioners' counsel of record in this case since he never formally entered his appearance before the Court.^[61]

In a Resolution dated September 14, 2005, the Court denied the motion to refer Atty. Joyas to the IBP for being a wrong remedy.^[62]

Petitioners Iluminada, Zenaida and Ma. Emma then filed an Omnibus Motion,^[63] seeking an extension of time to comply with the Court's Resolution and Motion to delete the penalty of "fine" as a consequence of voluntary compliance. They insist that their compliance with the order to pay the widow's allowance should "obliterate, expunge, and blot out" the penalty of fine and imprisonment. They alleged that for their failure to comply with this Court's Resolution, the RTC, Lucena City, found them guilty of indirect contempt and imposed on them a fine of P30,000.00. They had appealed said order to the CA.

They also tried to make a case out of the use of the terms "joint and several" in the September 23 Resolution, and "collectively" in the April 5, 2005 Resolution. They argued that "joint and several" creates individual liability for each of the parties for the full amount of the obligation, while "collectively" means that all members of the group are responsible together for the action of the group. Hence, "collectively" would mean that the liability belongs

equally to the two groups of petitioners. They requested for an additional 60 days to raise the necessary amount. They also asked the Court to hold their imprisonment in abeyance until their "just and reasonable compliance" with the Court's orders.

Barely a month later, petitioners, through their new counsel, filed another Manifestation stressing that Sy Bang's marriage to Rosita Ferrera is void. They claimed that respondents have falsified documents to lead the courts into believing that Rosita's marriage to Sy Bang is valid.

The Omnibus Motion was denied in a Resolution dated October 17, 2005. Thereafter, respondents filed a Motion to Immediately Order Incarceration of Petitioners,[64] which petitioners opposed.[65]

In a Resolution dated December 12, 2005,[66] the Court issued a Warrant of Arrest[67] against petitioners and directed the National Bureau of Investigation (NBI) to detain them until they complied with this Court's April 4, 2005 and July 25, 2005 Resolutions.

Petitioner Rosa Tan filed a Manifestation with Motion.[68] She informed the Court that, to show that she was not obstinate and contumacious of the Court and its orders, she had begged and pleaded with her relatives to raise money to comply, but concedes that she was only able to raise a minimal amount since she has no source of income herself and needs financial support to buy her food and medicines. She obtained her brother's help and the latter issued six checks in the total amount of P650,000.00. She also alleged that she was not informed by her husband's counsel of the developments in the case, and remained unconsulted on any of the matters or incidents of the case. She reiterated that she had no participation in the management of the Sy Bang estate and received nothing of value upon her husband's death. She prayed that the Court would not consider her failure to raise any further amount as contempt or defiance of its orders.

The motion was denied in a Resolution dated January 16, 2006.

In an Urgent Manifestation of Compliance with the Contempt Resolutions with Payment of Widow's Allowance with Prayer Reiterating the Lifting of Warrant of Arrest on Humanitarian Grounds,[69] petitioners Iluminada, Zenaida and Ma. Emma asked the Court to delete the penalty of indefinite imprisonment considering their partial compliance and the partial compliance of Rosa Tan. They expressed willingness to deposit the widow's allowance with the Supreme Court's Cashier pending the determination of Sy Bang's estate. They reasoned that the money to be deposited is their own and does not belong to Sy Bang's estate. The deposit is made for the sole purpose of deleting the penalty of indefinite imprisonment. They claim that they are not willfully disobeying the Court's order but are merely hesitating to comply because of pending incidents such as the falsification charges against Rosita, the resolution of the partition case, the Sinumpaang Salaysay executed by Rosita, and the pendency of Rosita's guardianship proceedings, as well as humanitarian considerations. Thus, they prayed for the Court to reconsider the order of contempt and to recall the warrant of arrest.

On February 15, 2006, this Court issued a Resolution[70] lifting the warrant of arrest on petitioners Iluminada, Zenaida, Ma. Emma, and Rosa Tan on the condition that they issue the corresponding checks to settle the accrued widow's allowance of Rosita Ferrera-Sy. They were also directed to submit proof of their compliance to the Court within ten (10) days from notice.

In a Manifestation[71] dated February 28, 2006, petitioners Iluminada, Zenaida and Ma. Emma informed the Court that they had deposited the checks in favor of Rosita with the RTC, Lucena City, Branch 58, during the proceedings on February 28, 2006.[72]

Respondents filed a Comment to the Manifestation arguing that the deposit of said checks, amounting to P1,073,053.00, does not amount to full compliance with the Court's order considering that the accrued widow's

allowance now amounted to P4,528,125.00.

Then, petitioners Iluminada, Zenaida and Ma. Emma filed a Motion to include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang as they may also hold Assets-Properties of the Estate of Sy Bang.[73] They argued that it is denial of the equal protection clause for the Court to single out only the two children of the first marriage - Jose Sy Bang and Julian Sy - and their heirs, as the ones responsible for the widow's allowance. This ruling, they aver, does not take into consideration the numerous and valuable properties from the estate of Sy Bang being held in the names of Rosalino, Bartolome, Rolando, and Enrique. They alleged that two compromise agreements, both approved by the trial court, transferred properties to Rolando and Renato. They further alleged that respondents Rolando, Maria Lourdes, Florecita, Rosalino, Enrique, and Rosita Ferrera-Sy have executed separate waivers and quitclaims over their shares in the estate of Sy Bang for certain considerations. However, out of respect for the Court and their fear of incarceration, they complied with the Court's orders using their personal funds which they claim is unfair because they have never participated in the management of the properties of Sy Bang. They prayed that the Court pronounce that the liability for the widow's allowance be divided proportionately among the following groups: Iluminada, Zenaida, and Ma. Emma; Rosa Tan; Rosalino Sy and wife Helen Loo; Bartolome Sy and wife Virginia Lim; Rolando Sy and wife Anacrita Rioflorido; and the heirs of Enrique Sy, namely, Elaine Destura and Edwin Maceda.

On March 23, 2006, petitioners filed an Urgent Reply to respondents' Comment on the manifestation of compliance with Opposition[74] to the motion filed by respondents for the Court to reiterate its order for the NBI to arrest petitioners for failure to comply with the February 15, 2006 Resolution. They argued that they had fully complied with the Court's orders. They alleged that on three occasions within the period, they had tried to submit 12 postdated checks to the Court's cashiers, but the same were refused due to the policy of the Court not to issue receipts on postdated checks. They then filed a motion before the RTC of Lucena City praying for authority to deposit the checks with the trial court. The motion was denied but, on reconsideration, was later granted. The checks are now in the custody of the RTC. The only issue respondents raise, they claim, is the amount of the checks. Hence, there is no basis for the Court to direct the NBI to effect their arrest.

The Court, in a Resolution dated March 29, 2006, required respondents to comment on the motion to include some of them in the payment of widow's allowance. Petitioners, on the other hand, were required to comment on a motion filed by respondents for the Court to reiterate its order to the NBI to arrest petitioners for failure to comply with the February 15, 2006 Resolution.[75]

Petitioners filed their Comment with Motion for Partial Reconsideration of the March 29, 2006 Resolution.[76] They reiterated their arguments in their Urgent Reply to respondents' Comment on the manifestation of compliance with Opposition. They further alleged that there is now a Resolution by the Regional State Prosecutor, Region IV, San Pablo City, finding probable cause to charge respondents with falsification of three marriage contracts between Sy Bang and Rosita Ferrera. According to them, this development now constitutes a "highly prejudicial question" on whether they should comply with the order to pay widow's allowance. They claim that, while the filing of the information is merely the first step in the criminal prosecution of respondents, it already casts doubt on whether Rosita is legally entitled to the widow's allowance. They now seek partial reconsideration of the Resolution inasmuch as it requires them to deposit with the Clerk of Court, RTC of Lucena City, Branch 58, new checks payable to Rosita Ferrera.

Respondents, on the other hand, filed a Comment and Manifestation[77] on why they should not be made to pay the widow's allowance. They argued that the RTC had already decided that the estate of Sy Bang was comprised of properties in the names of Jose Sy Bang, Iluminada Tan, Zenaida, Ma. Emma, Julian Sy, and Rosa Tan, and the

same was affirmed by the CA. Pending the resolution of the appeal before this Court, this Decision stands. Thus, petitioners' claim that the estate of Sy Bang is yet undetermined is false. They also claim that, contrary to petitioners' claims of being poor, they still hold enormous properties of the Sy Bang estate, which had been transferred in their names through falsification of public documents, now subject of several cases which respondents filed against them before the Department of Justice (DOJ). Respondents further claim that the validity of their mother's marriage to Sy Bang has been recognized by the courts in several cases where the issue had been raised, including the case for recognition of Rosita's Filipino citizenship, the guardianship proceedings, and the partition proceedings.

On June 23, 2006, respondents filed a Motion for Substitution of Parties.[78] They averred that Jose Sy Bang died on September 11, 2001, leaving behind his widow Iluminada and 14 children, while Julian Sy died on August 28, 2004, leaving behind his widow Rosa and eight children. The claims against Jose and Julian were not extinguished by their deaths. It was the duty of petitioners' counsel, under Rule 3, Section 16 of the Rules of Court, to inform the Court of these deaths within 30 days thereof. Petitioners' counsel failed to so inform this Court, which should be a ground for disciplinary action. Hence, respondents prayed that the Court order the heirs of the two deceased to appear and be substituted in these cases within 30 days from notice.

In a Resolution[79] dated July 5, 2006, the Court granted the motion for substitution and noted the Comment and Manifestation on the Motion to include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang.

Respondents then filed a Manifestation and Motion to Implement the Supreme Court's Resolutions of September 23, 1996, April 4, 2005, July 25, 2005, December 12, 2005, and February 15, 2006.[80] They prayed that petitioners be given a last period of five days within which to deposit with the Supreme Court Cashier all the accrued widow's allowances as of June 2006.

Petitioners Iluminada, Zenaida and Ma. Emma opposed respondents' manifestation and motion.[81] They argued that the resolutions sought to be implemented were all issued prior to the DOJ Resolution finding probable cause to file the falsification charges against respondents. They contended that the criminal cases for falsification expose Rosita as a mere common-law wife and not a "widow"; hence, there is no legal justification to give her the widow's allowance. They also reiterated their earlier arguments against the grant of widow's allowance.

Meanwhile, Rosa Tan filed a Comment on the Substitution of Parties with Motion for Reconsideration.[82] She argued that since the trial court had already appointed a judicial administrator for the estate of Sy Bang, which includes Julian Sy's estate, the proper party to be substituted should be the administrator and not Julian's heirs who never exercised ownership rights over the properties thereof.

The Court denied the motion for reconsideration to the Resolution granting substitution of parties for lack of merit on November 20, 2006.

The Court's Ruling

G.R. No. 114217

Finding no reversible error therein, we affirm the CA Decision.

The Third Partial Decision of the RTC

To review, the CA held, to wit:

The respondent Judge acted correctly inasmuch as his decision to defer the resolution on the question concerning the properties in the name of Rosalino, Bartolome, Rolando and Enrique, all surnamed Sy, will not

necessarily affect the decision he rendered concerning the properties in the names of Jose Sy Bang and wife, Julian Sy and wife, Zenaida Sy and Maria Sy, considering that the properties mentioned were separable and distinct from each other, such that the claim that said properties were not their own, but properties of the late Sy Bang, could have been the subject of separate suits.[83]

We agree with the CA.

Section 4, Rule 36 of the Revised Rules on Civil Procedure states:

SEC. 4. Several judgments. - In an action against several defendants, the court may, when a several judgment is proper, render judgment against one or more of them, leaving the action to proceed against the others.

The trial court's Third Partial Decision is in the nature of a several judgment as contemplated by the rule quoted above. The trial court ruled on the status of the properties in the names of petitioners (defendants below) while deferring the ruling on the properties in the names of respondents pending the presentation of evidence.

A several judgment is proper when the liability of each party is clearly separable and distinct from that of his co-parties, such that the claims against each of them could have been the subject of separate suits, and judgment for or against one of them will not necessarily affect the other.[84]

Petitioners, although sued collectively, each held a separate and separable interest in the properties of the Sy Bang estate.

The pronouncement as to the obligation of one or some petitioners did not affect the determination of the obligations of the others. That the properties in the names of petitioners were found to be part of the Sy Bang estate did not preclude any further findings or judgment on the status or nature of the properties in the names of the other heirs.

The trial court's June 2, 1982 Order reads:

IN view of the importance of the issue concerning whether all the properties in the name (sic) of Enrique Sy, Bartolome Sy, Rosalino Sy and Rolando Sy and/or their respective wives (as well as those in the names of the other parties litigants in this case), (sic) shall be declared or included as part of the Estate of Sy Bang, and in view of the numerous documentary evidences (sic) presented by Attys. Raya and Camaligan after the said question was agreed to be submitted for resolution on May 26, 1982, the Court hereby sets for the reception or for the resolution of said issue in this case on June 8 and 9, 1982, both at 2:00 o'clock in the afternoon; notify all parties litigants in this case of these settings.[85]

It is obvious from the trial court's order[86] that the June 8, 1982 hearing is for the purpose of determining whether properties in the names of Enrique Sy, Bartolome Sy, Rosalino Sy, and Rolando Sy and/or their respective wives are also part of the Sy Bang estate.

Hence, in the assailed Decision, the trial court said:

[I]n fact, the Court will require further evidence for or against any of the parties in this case in the matter of whatever sums of money, property or asset belonging to the estate of Sy Bang that came into their possession in order that the Court may be properly guided in the partition and adjudication of the rightful share and interest of the heirs of Sy Bang over the latter's estate; this becomes imperative in view of new matters shown in the Submission and Formal Offer of Reserve Exhibits and the Offer of Additional Documentary Evidence filed respectively by Oscar Sy and Jose Sy Bang, et al., thru their respective counsels after the question of whether or not the properties in the names of Enrique, Bartolome, Rosalino, and Rolando, all surnamed Sy, should form part or be included as part of the estate of Sy Bang, had been submitted for resolution as of May 26, 1982; the Court deems it proper to receive additional evidence on the part of any of the parties litigants in

this case if only to determine the true extent of the estate belonging to Sy Bang.[87]

The trial court painstakingly examined the evidence on record and narrated the details, then carefully laid out the particulars in the assailed Decision. The evidence that formed the basis for the trial court's conclusion is embodied in the Decision itself - evidence presented by the parties themselves, including petitioners.

However, notwithstanding the trial court's pronouncement, the Sy Bang estate cannot be partitioned or distributed until the final determination of the extent of the estate and only until it is shown that the obligations under Rule 90, Section 1,[88] have been settled.[89]

In the settlement of estate proceedings, the distribution of the estate properties can only be made: (1) after all the debts, funeral charges, expenses of administration, allowance to the widow, and estate tax have been paid; or (2) before payment of said obligations only if the distributees or any of them gives a bond in a sum fixed by the court conditioned upon the payment of said obligations within such time as the court directs, or when provision is made to meet those obligations.[90]

Settling the issue of ownership is the first stage in an action for partition.[91] As this Court has ruled:

The issue of ownership or co-ownership, to be more precise, must first be resolved in order to effect a partition of properties. This should be done in the action for partition itself. As held in the case of *Catapusan v. Court of Appeals*:

"In actions for partition, the court cannot properly issue an order to divide the property, unless it first makes a determination as to the existence of co-ownership. The court must initially settle the issue of ownership, the first stage in an action for partition. Needless to state, an action for partition will not lie if the claimant has no rightful interest over the subject property. In fact, Section 1 of Rule 69 requires the party filing the action to state in his complaint the "nature and extent of his title" to the real estate. Until and unless the issue of ownership is definitely resolved, it would be premature to effect a partition of the properties x x x." [92]

Moreover, the Third Partial Decision does not have the effect of terminating the proceedings for partition. By its very nature, the Third Partial Decision is but a determination based on the evidence presented thus far. There remained issues to be resolved by the court. There would be no final determination of the extent of the Sy Bang estate until the court's examination of the properties in the names of Rosalino, Bartolome, Rolando, and Enrique. Based on the evidence presented, the trial court will have to make a pronouncement whether the properties in the names of Rosalino, Bartolome, Rolando, and Enrique indeed belong to the Sy Bang estate. Only after the full extent of the Sy Bang estate has been determined can the trial court finally order the partition of each of the heirs' share.

Appointment of Receiver

As to the issue of the judge's appointment of a receiver, suffice it to say that the CA conclusively found thus:

The records show that the petitioners were never deprived of their day in court. Upon Order of the respondent Judge, counsel for the petitioners submitted their opposition to [the] petition for appointment of a receiver filed by private respondents. x x x.

Moreover, evidence on record shows that respondent Judge appointed the receiver after both parties have presented their evidence and after the Third Partial Decision has been promulgated. Such appointment was made upon verified petition of herein private respondents, alleging that petitioners are mismanaging the properties in litigation by either mortgaging or disposing the same, hence, the said properties are in danger of being lost, wasted, dissipated, misused, or disposed of. The respondent Judge acted correctly in granting the appointment of a receiver in Civil Case No. 8578, in order to preserve the properties in *litis pendentia* and neither did he abuse his discretion nor acted arbitrarily in doing so. On the contrary, We find that it was the

petitioners who violated the status quo sought to be maintained by the Supreme Court, in G.R. No. 61519, by their intrusion and unwarranted seizures of the 3 theaters, subject matter of the litigation, and which are admittedly under the exclusive management and operation of private respondent, Rosaura Sy.[93]

Cancellation of Notice of Lis Pendens

Next, petitioners question the trial court's Order canceling the notice of lis pendens.[94]

Section 77 of Presidential Decree No. 1529, or the Property Registration Decree, provides:

SEC. 77. Cancellation of lis pendens. Before final judgment, a notice of lis pendens may be cancelled upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be registered. It may also be cancelled by the Register of Deeds upon verified petition of the party who caused the registration thereof.

At any time after final judgment in favor of the defendant, or other disposition of the action such as to terminate finally all rights of the plaintiff in and to the land and/or buildings involved, in any case in which a memorandum or notice of lis pendens has been registered as provided in the preceding section, the notice of lis pendens shall be deemed cancelled upon the registration of certificate of the clerk of court in which the action or proceeding was pending stating the manner of disposal thereof.

The filing of a notice of lis pendens has a two-fold effect: (1) to keep the subject matter of the litigation within the power of the court until the entry of the final judgment in order to prevent the final judgment from being defeated by successive alienations; and (2) to bind a purchaser, bona fide or not, of the land subject of the litigation to the judgment or decree that the court will promulgate subsequently.[95]

While the trial court has an inherent power to cancel a notice of lis pendens, such power is to be exercised within the express confines of the law. As provided in Section 14, Rule 13 of the 1997 Rules of Civil Procedure, a notice of lis pendens may be cancelled on two grounds: (1) when the annotation was for the purpose of molesting the title of the adverse party, or (2) when the annotation is not necessary to protect the title of the party who caused it to be recorded.[96]

This Court has interpreted the notice as:

The notice is but an incident in an action, an extrajudicial one, to be sure. It does not affect the merits thereof. It is intended merely to constructively advise, or warn, all people who deal with the property that they so deal with it at their own risk, and whatever rights they may acquire in the property in any voluntary transaction are subject to the results of the action, and may well be inferior and subordinate to those which may be finally determined and laid down therein. The cancellation of such a precautionary notice is therefore also a mere incident in the action, and may be ordered by the Court having jurisdiction of it at any given time. And its continuance or removal-like the continuance or removal of a preliminary attachment of injunction-is not contingent on the existence of a final judgment in the action, and ordinarily has no effect on the merits thereof.[97]

The CA found, and we affirm, that Rosalino, Bartolome and Rolando were able to prove that the notice was intended merely to molest and harass the owners of the property, some of whom were not parties to the case. It was also proven that the interest of Oscar Sy, who caused the notice to be annotated, was only 1/14 of the assessed value of the property. Moreover, Rosalino, Bartolome and Rolando were ordered to post a P50,000.00 bond to protect whatever rights or interest Oscar Sy may have in the properties under *litis pendentia*.[98]

G.R. No. 150797

In G.R. No. 150797, petitioners are asking this Court to reverse the CA's February 28, 2001 Decision and its

Resolution denying the Motion for Reconsideration, and to declare the Guardianship court to have exceeded its jurisdiction in directing the deposit of the widow's allowance in Special Proceedings No. 96-34.

We find merit in petitioners' contention.

The court hearing the petition for guardianship had limited jurisdiction. It had no jurisdiction to enforce payment of the widow's allowance ordered by this Court.

Reviewing the antecedents, we note that the claim for widow's allowance was made before the Supreme Court in a case that did not arise from the guardianship proceedings. The case subject of the Supreme Court petition (Civil Case No. 8578) is still pending before the RTC of Lucena City.

Rule 83, Sec. 3, of the Rules of Court states:

SEC. 3. Allowance to widow and family. - The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom, under the direction of the court, such allowance as are provided by law.

Correlatively, Article 188 of the Civil Code states:

Art. 188. From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds the fruits or rents pertaining to them.

Obviously, "the court" referred to in Rule 83, Sec. 3, of the Rules of Court is the court hearing the settlement of the estate. Also crystal clear is the provision of the law that the widow's allowance is to be taken from the common mass of property forming part of the estate of the decedent.

Thus, as evident from the foregoing provisions, it is the court hearing the settlement of the estate that should effect the payment of widow's allowance considering that the properties of the estate are within its jurisdiction, to the exclusion of all other courts.[99]

In emphasizing the limited jurisdiction of the guardianship court, this Court has pronounced that:

Generally, the guardianship court exercising special and limited jurisdiction cannot actually order the delivery of the property of the ward found to be embezzled, concealed, or conveyed. In a categorical language of this Court, only in extreme cases, where property clearly belongs to the ward or where his title thereto has been already judicially decided, may the court direct its delivery to the guardian. In effect, there can only be delivery or return of the embezzled, concealed or conveyed property of the ward, where the right or title of said ward is clear and undisputable. However, where title to any property said to be embezzled, concealed or conveyed is in dispute, x x x the determination of said title or right whether in favor of the persons said to have embezzled, concealed or conveyed the property must be determined in a separate ordinary action and not in a guardianship proceedings.[100]

Further, this Court has held that the distribution of the residue of the estate of the deceased incompetent is a function pertaining properly, not to the guardianship proceedings, but to another proceeding in which the heirs are at liberty to initiate.[101]

Other Unresolved Incidents

Payment of Widow's Allowance

It has been 13 years since this Court ordered petitioners to pay Rosita Ferrera-Sy her monthly widow's allowance. Petitioners Iluminada, Zenaida and Ma. Emma have since fought tooth and nail against paying the said allowance,

grudgingly complying only upon threat of incarceration. Then, they again argued against the grant of widow's allowance after the DOJ issued its Resolution finding probable cause in the falsification charges against respondents. They contended that the criminal cases for falsification proved that Rosita is a mere common-law wife and not a "widow" and, therefore, not entitled to widow's allowance.

This argument deserves scant consideration.

A finding of probable cause does not conclusively prove the charge of falsification against respondents.

In a preliminary investigation, probable cause has been defined as "the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted." It is well-settled that a finding of probable cause needs to rest only on evidence showing that more likely than not a crime has been committed and was committed by the suspects. Probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt.[102]

Hence, until the marriage is finally declared void by the court, the same is presumed valid and Rosita is entitled to receive her widow's allowance to be taken from the estate of Sy Bang.

We remind petitioners again that they are duty-bound to comply with whatever the courts, in relation to the properties under litigation, may order.

Motion to Include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang

On March 14, 2006, petitioners filed a Motion to include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang.

The Motion is denied.

The widow's allowance, as discussed above, is chargeable to Sy Bang's estate. It must be stressed that the issue of whether the properties in the names of Rosalino, Bartolome, Rolando, and Enrique Sy form part of Sy Bang's estate remains unsettled since this Petition questioning the trial court's Third Partial Decision has been pending. On the other hand, there has been a categorical pronouncement that petitioners are holding properties belonging to Sy Bang's estate.

That the full extent of Sy Bang's estate has not yet been determined is no excuse from complying with this Court's order. Properties of the estate have been identified - i.e., those in the names of petitioners - thus, these properties should be made to answer for the widow's allowance of Rosita. In any case, the amount Rosita receives for support, which exceeds the fruits or rents pertaining to her, will be deducted from her share of the estate.[103]

A Final Note

We are appalled by the delay in the disposition of this case brought about by petitioners' propensity to challenge the Court's every directive. That the petitioners would go to extreme lengths to evade complying with their duties under the law and the orders of this Court is truly deplorable. Not even a citation for contempt and the threat of imprisonment seemed to deter them. Their contumacious attitude and actions have dragged this case for far too long with practically no end in sight. Their abuse of legal and court processes is shameful, and they must not be allowed to continue with their atrocious behavior. Petitioners deserve to be sanctioned, and ordered to pay the Court treble costs.

WHEREFORE, the foregoing premises considered, the Petition in G.R. No. 150797 is GRANTED, while the Petition in G.R. No. 114217 is DENIED. The Regional Trial Court of Lucena City is directed to hear and decide Civil Case No. 8578 with dispatch. The Motion to include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang is DENIED. Treble costs against petitioners.

SO ORDERED.

Carpio, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] The Petition was originally filed by Spouse Jose Sy Bang and Iluminada Tan, Spouses Julian Sy and Rosa Tan, Zenaida Sy, Ma. Emma Sy, and Oscar Sy. Respondents filed a Motion for Substitution of Parties on June 23, 2006, informing this Court of the deaths of Jose Sy Bang and Julian Sy. The Court granted the Motion in a Resolution dated July 5, 2006.

[2] Penned by Associate Justice Consuelo Ynares-Santiago (a retired member of this Court), with Associate Justices Luis A. Javellana (ret.) and Minerva P. Gonzaga-Reyes (a retired member of this Court), concurring; rollo (G.R. No. 114217), pp. 154-164.

[3] Penned by Associate Justice Consuelo Ynares-Santiago (a retired member of this Court), with Associate Justices Alfredo L. Benipayo (ret.) and Minerva P. Gonzaga-Reyes (a retired member of this Court), concurring; rollo, pp. 186-187.

[4] Other respondents became complainants; rollo (G.R. No. 114217), p. 155.

[5] Rollo, p. 155.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 155-156.

[10] Penned by Judge Benigno M. Puno, id. at 77-101.

[11] Id. at 157.

[12] Id.

[13] Id. at 110-113.

[14] Id. at 118-119.

[15] Id. at 114.

[16] Id. at 155-159.

[17] Supra note 2.

[18] Supra note 3.

[19] Rollo (G.R. No. 114217), p. 39.

[20] Id. at 29-32.

[21] Id. at 16-17.

[22] Id. at 576.

[23] Id. at 644-645.

[24] Id. at 658.

[25] Id. at 659.

[26] Sinumpaang Salaysay, id. at 661.

[27] Rollo (G.R. No. 114217), pp. 664-668.

[28] Id. at 689-691.

[29] Id. at 689-690.

[30] Id. at 685-686.

[31] Id. at 679-670.

[32] Id. at 697-702.

[33] Id. at 684-685 (unnumbered pages).

[34] Id. at 617.

[35] Rollo (G.R. No. 150797), pp. 43-44.

[36] Rollo (G.R. No. 114217), p. 719.

[37] Rollo (G.R. No. 150797), p. 271.

[38] Id. at 45.

[39] Penned by Associate Justice Fermin A. Martin, Jr. (ret.), with Associate Justices Portia Aliño-Hormachuelos and Mercedes Gozo-Dadole (ret.), concurring; id. at 11-20.

[40] Rollo (G.R. No. 150797), p. 69. (Citations omitted.)

[41] CA Resolution penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Andres B. Reyes, Jr. and Mercedes Gozo-Dadole (ret.), concurring; id. at 73.

[42] Rollo (G.R. No. 150797), pp. 33-59.

[43] Id. at 55.

[44] Id. at 49-50.

[45] Id. at 46-47.

[46] Id. at 53.

[47] Id. at 451.

[48] Id. at 488-494.

- [49] Id. at 467-474.
- [50] Rollo (G.R. No. 114217), pp. 762-763.
- [51] Rollo (G.R. No. 150797), p. 511.
- [52] Id. at 512-516.
- [53] Id. at 517-526.
- [54] Id. at 527-538.
- [55] Id. at 565-568.
- [56] Id. at 573-577.
- [57] Id. at 578-590, 617-622.
- [58] Id. at 611-616.
- [59] Id. at 657-690.
- [60] Id. at 709-715.
- [61] Id. at 712.
- [62] Id. at (between 715-716).
- [63] Id. at 787-802.
- [64] Id. at 900-905.
- [65] Id. at 908-922.
- [66] Id. at 924-925.
- [67] Id. at 926-928.
- [68] Id. at 933-946.
- [69] Id. at 992-1001.
- [70] Id. at 1073-1074.
- [71] Id. at 1023-1024.
- [72] Id. at 1025.
- [73] Id. at 1032-1043.
- [74] Id. at 1076-1084.
- [75] Id. at 1067-1069.
- [76] Id. at 1100-1114.
- [77] Id. at 1141-1159.
- [78] Id. at 1162-1167.
- [79] Id. at 1168-1169.

[80] Id. at 1170-1178.

[81] Id. at 1173-1207

[82] Id. at 1258-1263.

[83] Rollo (G.R. No. 114217), p. 161.

[84] *Fernando v. Santamaria*, 487 Phil. 351, 357 (2004).

[85] Rollo (G.R. No. 114217), p. 161.

[86] Id. at 76.

[87] Id. at 100.

[88] SECTION 1. When order for distribution of residue made.--When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.

No distribution shall be allowed until the payment of the obligations above mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

[89] See *Estate of Ruiz v. Court of Appeals*, 322 Phil. 590, (1996).

[90] *Estate of Ruiz v. Court of Appeals*, id., citing *Castillo v. Castillo*, 124 Phil. 485 (1966); *Edmands v. Philippine Trust Co.*, 87 Phil. 405 (1952).

[91] *Heirs of Velasquez v. Court of Appeals*, G.R. No. 126996, February 15, 2000, 325 SCRA 552, 566, citing *de Mesa v. CA*, 231 SCRA 773.

[92] *Reyes-de Leon v. del Rosario*, 479 Phil. 98, 107 (2004).

[93] Rollo (G.R. No. 114217), p. 162.

[94] Id. at 118-119.

[95] *Romero v. Court of Appeals*, 497 Phil. 775, 784-785 (2005), citing *Heirs of Eugenio Lopez, Sr. v. Enriquez*, G.R. No. 146262, January 21, 2005, 449 SCRA 173.

[96] *Romero v. Court of Appeals*, id. (Citations omitted.)

[97] *Magdalena Homeowners Association, Inc. v. Court of Appeals*, G.R. No. L-60323, April 17, 1990, 184 SCRA 325, 330; *Yared v. Ilarde*, G.R. No. 114732, August 1, 2000, 337 SCRA 53.

[98] Rollo (G.R. No. 114217), p. 163.

[99] Rule 73, Sec. 1 of the Rules of Court states:

SECTION 1. Where estate of deceased persons settled.--If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Regional Trial Court in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Regional Trial Court of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record. (Emphasis supplied.)

[100] *Paciente v. Dacuycuy, etc., et al.*, 200 Phil. 403, 408-409 (1982), citing *Cui, et al. v. Piccio, et al.*, 91 Phil. 712 (1952); *Parco and Bautista v. Court of Appeals*, 197 Phil. 240 (1982).

[101] *Gomez v. Imperial*, 134 Phil. 858, 864 (1968); *Garcia v. Court of Appeals*, 350 Phil. 465 (1998), where the Court upheld the ruling of the Court of Appeals affirming the trial court's jurisdiction over a case for guardianship holding that the reliance on *Gomez* was misplaced, since in that case, the petition was only for guardianship; while in *Garcia*, the action was for both guardianship and settlement of the estate.

[102] *Lastrilla v. Granada*, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 340. (Citations omitted.)

[103] See Article 188 of the Civil Code.

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