

FABIANA C. VDA. DE SALAZAR, PETITIONER, VS. COURT OF APPEALS, PRIMITIVO NEPOMUCENO AND EMERENCIANA NEPOMUCENO, RESPONDENTS.

G.R. No. 121510. November 23, 1995

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

Where the defendant in an ejectment case dies before the rendition by the trial court of its decision therein, does the trial court's failure to effectuate a substitution of heirs before its rendition of judgment render such judgment jurisdictionally infirm?

On July 23, 1970, both private respondents Primitivo Nepomuceno and Emerenciana Nepomuceno filed separate complaints[1] with the then Court of Agrarian Relations of Malolos, Bulacan, for ejectment on the ground of personal cultivation and conversion of land for useful non-agricultural purposes against petitioner's deceased husband, Benjamin Salazar. After protracted proceedings in the agrarian court and then the Regional Trial Court[2] spanning from 1970 to 1993, the trial court rendered its joint decision[3] in favor of private respondents. An appeal[4] therefrom was interposed in the name of petitioner's deceased husband on the ground that private respondents herein failed to satisfy the requirements pertaining to personal cultivation and conversion of the landholdings into non-agricultural uses. The Court of Appeals rejected such contention upon finding that the record was replete with evidence justifying private respondents' assertion of their right of cultivation and conversion of their landholdings.[5]

Almost a year after the termination of that appeal, the same trial court decision subject thereof was once again assailed before the Court of Appeals through a petition[6] for annulment of judgment. Herein petitioner assailed the same trial court decision as having been rendered by a court that did not have jurisdiction over her and the other heirs of her deceased husband because notwithstanding the fact that her husband had already died on October 3, 1991, the trial court still proceeded to render its decision on August 23, 1993 without effecting the substitution of heirs in accordance with Section 17, Rule 3, of the Rules of Court thereby depriving her of her day in court.

Petitioner, not having asserted the matter of fraud or collusion in her petition for annulment of judgment, the Court of Appeals decided the same on the basis of the sole issue of non-jurisdiction resulting from the alleged deprivation of petitioner's right to due process and ruled in favor of the validity of the challenged decision.[7] Petitioner filed a motion for reconsideration of the decision of the appellate court reiterating the trial court's lack of jurisdiction over the heirs of petitioner's deceased husband as a consequence of the failure of the trial court to effectuate a valid substitution of heirs. Said motion was denied in a resolution promulgated on August 14, 1995. Hence this petition.

The petition is bereft of merit.

The need for substitution of heirs is based on the right to due process accruing to every party in any

proceeding.[8] The rationale underlying this requirement in case a party dies during the pendency of proceedings of a nature not extinguished by such death, is that

"x x x the exercise of judicial power to hear and determine a cause implicitly presupposes in the trial court, amongst other essentials, jurisdiction over the persons of the parties. That jurisdiction was inevitably impaired upon the death of the protestee pending the proceedings below such that unless and until a legal representative is for him duly named and within the jurisdiction of the trial court, no adjudication in the cause could have been accorded any validity or binding effect upon any party, in representation of the deceased, without trenching upon the fundamental right to a day in court which is the very essence of the constitutionally enshrined guarantee of due process." [9]

We are not unaware of several cases [10] where we have ruled that a party having died in an action that survives, the trial held by the court without appearance of the deceased's legal representative or substitution of heirs and the judgment rendered after such trial, are null and void because the court acquired no jurisdiction over the persons of the legal representatives or of the heirs upon whom the trial and the judgment would be binding. This general rule notwithstanding, in denying petitioner's motion for reconsideration, the Court of Appeals correctly ruled that formal substitution of heirs is not necessary when the heirs themselves voluntarily appeared, participated in the case and presented evidence in defense of deceased defendant. Attending the case at bench, after all, are these particular circumstances which negate petitioner's belated and seemingly ostensible claim of violation of her rights to due process. We should not lose sight of the principle underlying the general rule that formal substitution of heirs must be effectuated for them to be bound by a subsequent judgment. Such had been the general rule established not because the rule on substitution of heirs and that on appointment of a legal representative are jurisdictional requirements per se but because non-compliance therewith results in the undeniable violation of the right to due process of those who, though not duly notified of the proceedings, are substantially affected by the decision rendered therein. Viewing the rule on substitution of heirs in this light, the Court of Appeals, in the resolution denying petitioner's motion for reconsideration, thus expounded:

"Although the jurisprudential rule is that failure to make the substitution is a jurisdictional defect, it should be noted that the purpose of this procedural rule is to comply with due process requirements. The original party having died, he could not continue, to defend himself in court despite the fact that the action survived him. For the case to continue, the real party in interest must be substituted for the deceased. The real party in interest is the one who would be affected by the judgment. It could be the administrator or executor or the heirs. In the instant case, the heirs are the proper substitutes. Substitution gives them the opportunity to continue the defense for the deceased. Substitution is important because such opportunity to defend is a requirement to comply with due process. Such substitution consists of making the proper changes in the caption of the case which may be called the formal aspect of it. Such substitution also includes the process of letting the substitutes know that they shall be bound by any judgment in the case and that they should therefore actively participate in the defense of the deceased. This part may be called the substantive aspect. This is the heart of the procedural rule because this substantive aspect is the one that truly embodies and gives effect to the purpose of the rule. It is this court's view that compliance with the substantive aspect of the rule despite failure to comply with the formal aspect may be considered substantial compliance. Such is the situation in the case at bench because the only inference that could be deduced from the following facts was that there was active participation of the heirs in the defense of the deceased after his death:

1. The original lawyer did not stop representing the deceased. It would be absurd to think that the lawyer would continue to represent somebody if nobody is paying him his fees. The lawyer continued to represent him in the litigation before the trial court which lasted for about two more years. A dead party cannot pay him any fee. With or without payment of fees, the fact remains that the said counsel was allowed by the petitioner who was well aware of the instant litigation to continue appearing as counsel until August 23, 1993 when the challenged decision was rendered;

2. After the death of the defendant, his wife, who is the petitioner in the instant case, even testified in the court and declared that her husband is already deceased. She knew therefore that there was a litigation against her husband and that somehow her interest and those of her children were involved;

3. This petition for annulment of judgment was filed only after the appeal was decided against the defendant on April 3, 1995, more than one and a half year (sic) after the decision was rendered (even if we were to give credence to petitioner's manifestation that she was not aware that an appeal had been made);

4. The Supreme Court has already established that there is such a thing as jurisdiction by estoppel. This principle was established even in cases where jurisdiction over the subject matter was being questioned. In the instant case, only jurisdiction over the person of the heirs is in issue. Jurisdiction over the person may be acquired by the court more easily than jurisdiction over the subject matter. Jurisdiction over the person may be acquired by the simple appearance of the person in court as did herein petitioner appear;

5. The case cited by the herein petitioner (Ferreria et al. vs. Manuela Ibarra vda. de Gonzales, et al.) cannot be availed of to support the said petitioner's contention relative to non-acquisition of jurisdiction by the court. In that case, Manolita Gonzales was not served notice and, more importantly, she never appeared in court, unlike herein petitioner who appeared and even testified regarding the death of her husband "[11]

Consequently, we rule that, as in the case at bench, the defendant in an ejectment case having died before the rendition by the trial court of its decision therein, its failure to effectuate a formal substitution of heirs before its rendition of judgment, does not invalidate such judgment where the heirs themselves appeared before the trial court, participated in the proceedings therein, and presented evidence in defense of deceased defendant, it undeniably being evident that the heirs themselves sought their day in court and exercised their right to due process.

Respondent Court of Appeals also correctly ruled that ejectment, being an action involving recovery of real property, is a real action which as such, is not extinguished by the defendant's death.

"x x x The question as to whether an action survives or not depends on the nature of the action and the damage sued for. In the causes of action which survive, the wrong complained affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive, the injury complained of is to the person, the property and rights of property affected being incidental. "[12]

There is no dispute that an ejectment case survives the death of a party, which death did not extinguish the deceased's civil personality.[13] More significantly, a judgment in an ejectment case is conclusive between the parties and their successors in interest by title subsequent to the commencement of the action.[14] Thus, we have held that:

"x x x In such a case and considering that the supervening death of appellant did not extinguish her civil personality, the appellate court was well within its jurisdiction to proceed as it did with the case. There is no showing that the appellate court's proceedings in the case were tainted with irregularities.

It appears that petitioners are heirs of Adela Salindon. In fact, it was because of this relationship that the petitioners were able to transfer the title of Adela Salindon over the subject lot to their names. x x x Considering all this, the appellate decision is binding and enforceable against the petitioners as successors-in-interest by title subsequent to the commencement of the action (Section 49 (b) Rule 39, Rules of Court). Furthermore, x x x judgment in an ejectment case may be enforced not only against defendants therein but also against the members of their family, their relatives, or privies who derive their right of possession from the defendants (Ariem v. De los Angeles, 49 SCRA 343). Under the circumstances of this case, the same rule should apply to the successors-in-interest x x x." [15]

While it is true that a decision in an action for ejectment is enforceable not only against the defendant himself but also against members of his family, his relatives, and his privies who derived their right of possession from the defendant and his successors-in-interest,[16] it had been established that petitioner had, by her own acts, submitted to the jurisdiction of the trial court. She is now estopped to deny that she had been heard in defense of her deceased husband in the proceedings therein. As such, this petition evidently has no leg to stand on.

WHEREFORE, the instant petition is dismissed for lack of merit. Costs against petitioner.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

[1] Docketed as CAR Case No. 2557 and CAR Case No. 2558.

[2] Branch 8, Malolos, Bulacan.

[3] Dated August 23, 1993.

[4] Docketed as CA-G.R. SP-CAR No. 33484.

[5] Decision of the Court of Appeals in CA-G.R. SP-CAR No. 33484 promulgated on June 3, 1994.

[6] Docketed as CA-G.R. SP No. 36914.

[7] Decision of the Court of Appeals in CA-G.R. SP No. 36914 promulgated on April 28, 1995, Rollo, pp. 14-22.

[8] Vda. de Dela Cruz vs. CA, 88 SCRA 695.

[9] Vda. de De Mesa vs. Mencias, 18 SCRA 533.

[10] Ordoveza vs. Raymundo, 63 Phil. 275; Barrameda, et al. vs. Barbara, 90 Phil. 718; Ferreria vs. Gonzales, 104 Phil. 143; Caisip, et al. vs. Hon. Cabangon and Pineda, 109 Phil. 150; Vda. de De Mesa vs. Mencias, 18 SCRA 533; Casenas vs. Rosales, 19 SCRA 462; Obut vs. CA, et al., 70 SCRA 546; Vda. de Dela Cruz vs. CA, 88 SCRA 695; Vda. de Haberes vs. CA, 104 SCRA 534.

[11] Resolution in CA-G.R. SP No. 36914, pp. 2-3, Rollo, pp. 23-25.

[12] Bonilla vs. Barcena, 71 SCRA 495.

[13] Vda. de Haberes vs. CA, 104 SCRA 534; Republic vs. Bagtas, 6 SCRA 242; Florendo Jr. vs. Coloma, 129 SCRA 304.

[14] Ariem vs. De los Angeles, 49 SCRA 343; Florendo, Jr. vs. Coloma, supra.

[15] Florendo, Jr. vs. Coloma, supra.

[16] Heirs of Maximo Regoso vs. CA, 211 SCRA 348.

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