

ESTER SANTIAGO, PRISCILLA SANTIAGO, SUSAN SANTIAGO, JOSE SANTIAGO, JR., ERLINDA SANTIAGO, MA. VICTORIA SANTIAGO, APOLINARIO SANTIAGO AND CARMENCITA SANTIAGO, PETITIONERS, VS. HO...

G.R. No. 121908. January 26, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

This is a petition for review by way of certiorari filed by petitioner Ester Santiago, et al., assailing the decision of the Court of Appeals dated July 25, 1995 in CA GR SP No. 37130, dismissing their petition on the ground of laches and that the issue raised therein has been rendered moot and academic.[1] The motion for reconsideration was likewise denied in an order dated September 8, 1995.[2]

The facts which spawned this petition are as follows:

On September 13, 1993, in special proceeding No. Q-93-15854 of the Regional Trial Court of Quezon City, Branch 76, the holographic will of Juan G. Santiago was admitted to probate. Aurea G. Santiago, his surviving spouse, was appointed as administratrix of the testate estate of the said Juan G. Santiago who died childless on September 21, 1992.[3]

On May 17, 1994, the said administratrix filed an action for quieting of title and for partition of a parcel of land against Ester, Priscilla, Susan, Jose, Jr., Erlinda, Carmencita, Ma. Victoria and Apolinario, all surnamed Santiago, the provincial assessor of Bulacan, Felimon, Erasmo, Gerardo and Ana Marie, all surnamed Mendoza before the Regional Trial Court of Malolos, Bulacan, Branch 17 docketed as Civil Case No. 462-M-94.[4]

The Mendozas filed their answer and likewise prayed for partition of the property in question.[5]

On the other hand, the Santiagos, filed a Motion to Dismiss on June 27, 1994 asserting that the complaint states no cause of action against the defendants since the late Juan G. Santiago executed a waiver relinquishing his share in the property in question in favor of his brother Jose, the predecessor of petitioners.[6]

The administratrix filed an opposition to aforesaid motion contending in the main that the ground raised therein is a matter of defense that can only be appreciated after trial on the merits.[7]

The lower court sustained the motion to dismiss by issuing an order dated August 2, 1994 dismissing the complaint for lack of sufficient cause of action, the dispositive portion of which reads, to wit;

“WHEREFORE, the above-entitled case is hereby DISMISSED for lack of sufficient cause of action against the defendants.

SO ORDERED.” [8]

A motion for reconsideration was seasonably filed by Administratrix Aurea G. Santiago.[9] On September 20,

1994, the lower court reconsidered and set aside the order of dismissal which had the effect of denying the said motion to dismiss.[10]

The defendants-Santiagos then filed their answer with compulsory counterclaim.[11] On January 19, 1995, they filed another motion to Suspend/Defer Hearing[12] before said lower court claiming that they have a pending motion in the Probate Court (SP No. Q-93-15854, RTC, Q.C.) to set aside the order dated September 13, 1993 admitting to probate the holographic will of the testator Juan Santiago and appointing his wife as administratrix of the testator's estate.[13]

On February 10, 1993, the trial court denied the Motion to Suspend/Defer Hearing, the dispositive portion of said order reads:[14]

“WHEREFORE, the Motion to Suspend/Defer Proceedings filed by defendant Aurea Santiago is hereby denied. Set the hearing of this case to February 20, 1995 at 8:30 a.m.. Atty. Eustaquio Evangelista is hereby ordered to appear on said assignment and his failure to comply thereto would constitute an action for contempt of court.”

On February 28, 1995, petitioners filed a motion for reconsideration[15] which was likewise denied on March 27, 1995.[16]

The defendants-Santiagos then filed a petition for annulment, certiorari, prohibition and mandamus with prayer for preliminary mandatory and prohibitory injunctions with temporary restraining order before the respondent court bringing to the fore the impropriety of the orders denying their motion to dismiss and motion to suspend/defer proceedings, claiming that the said orders were tainted with grave abuse of discretion amounting to lack or in excess of jurisdiction.[17]

While the petition was pending, the herein private respondent informed the respondent court by way of supplement to its comment that the probate court had already denied petitioners motion to set aside the order of September 13, 1993.[18]

On July 25, 1995, the respondent court issued the assailed order, hence, this petition.

A careful perusal of the petition filed by herein petitioners show its lack of substance due to the ambiguous allegations therein. Moreover, petitioners' arguments dwell into the merits of the case pending before the trial court and are not directed to the validity of the decision of the respondent court. After a careful scrutiny of the petition, the court is of the view that the petition must be dismissed considering the factual circumstances obtaining in the case .

To begin with, the petition filed before the respondent court assailed in the main, the two (2) orders issued by the lower court, i.e., the order denying the motion to dismiss dated September 20, 1994; and the order denying the motion to suspend/defer the proceedings issued on February 10, 1995. The petition was filed only on May 3, 1995.

Anent the denial of the motion to dismiss, the respondent court was correct in ruling that the petitioners are guilty of laches. For, a period of almost eight (8) months had elapsed before petitioners decided to question the order of September 20, 1994. The petition failed to explain or adduced reasons for the belated recourse to the respondent court. Time and again, this Court has ruled that a special civil action under Rule 65 of the Rules of Court, may be filed within a reasonable period from the time the petitioners received notice of the denial of their motion for reconsideration and a period of three (3) months is considered reasonable[19] In fact, this Court has categorically ruled that a petition for certiorari should be filed within a reasonable period of three (3) months from notice of the decision or order. [20]

Then, after the denial of the motion to dismiss, petitioners filed their answer, took part in the proceedings. By their subsequent actions, the petitioners are now estopped from questioning the denial of the motion to dismiss. In fact, in *Zamboanga City Electric Cooperative, Inc. vs. Buat*,^[21] the court ruled that;

“We agree with the public respondent’s contention that; x x x petitioner cannot anymore raised the issue of jurisdiction, under the principle of estoppel. Petitioner participated in the proceedings from start to finish. It filed its position paper with the Labor Arbiter. When the decision of the Labor Arbiter decided in its favor, petitioner said nothing about jurisdiction. It was only when the Resolution of the NLRC was adverse to the petitioner that it raised the issue of jurisdiction.”

It is settled that an action is considered “moot” when it no longer presents a justiciable controversy because the issues involved have become academic or dead or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties. In the case at bar, the motion filed by petitioners before the probate court to set aside the order admitting the holographic will of Juan G. Santiago and designating his wife as the administratrix has been denied in the order of June 20, 1995. Considering that petitioners anchored their motion to suspend/defer the proceedings of the partition case on the pendency of aforesaid motion, the denial of the latter will necessarily render the issues moot and academic. Simply stated, there is nothing for the respondent court to resolve as the determination thereof has been overtaken by subsequent events.

This Court further takes into consideration the fact that petitioners had brought the propriety of the Order of June 20, 1995 before the respondent court and then to this Court in GR No. 122718. The respondent court dismissed the petition for certiorari filed by petitioners for lack of merit. The petition for review filed by petitioners was likewise dismissed by this Court in a Resolution dated February 6, 1996 and the motion to set aside the said order was denied with finality on June 3, 1996.

Concededly, in the light of the foregoing circumstances, this petition must be denied.

WHEREFORE , in view of the foregoing, finding no reversible error in the decision of the Court of Appeals the petition is hereby DENIED for lack of merit.

SO ORDERED.

Regalado, (Chairman), Puno, and Mendoza, JJ., concur.

[1] Penned by Honorable Associate Justice Quirino D. Abad Santos, Jr., Senior Member, 4th Division and concurred by the Honorable Justice Gloria C. Paras, Chairman, 4th Division and Honorable Justice Ruben T. Reyes, Junior Member, 4th Division.

[2] Order, p. 25, rollo.

[3] Order, pp. 112-113, *ibid*.

[4] Complaint, pp. 38-43, *ibid*.

[5] Answer, pp.114-119, *ibid*.

[6] Motion To Dismiss, pp. 45-48, rollo.

[7] Opposition to Motion to Dismiss, pp. 120-123, *ibid*.

[8] Order, pp. 49-51, *ibid*.

[9] Motion for Reconsideration, pp.124-133, *ibid.*

[10] Order, p. 39, *ibid.*

[11] Answer, pp. 140-142, *rollo.*

[12] Motion, pp. 52-53, *ibid.*

[13] Memorandum with Motion to set aside Order of September 13, 1993, pp.54-61, *ibid.*

[14] Order, p. 66, *ibid.*

[15] Motion, pp.67-72, *ibid.*

[16] Order, p. 73, *ibid.*

[17] Petition, pp. 23-46, *rollo.*

[18] Supplement to Comment with attached copy of the Order of Denial by the probate court of the motion to set aside order of September 13, 1993, dated June 20, 1995, pp.178- 181, *rollo.*

[19] *De la Paz vs. Panis*, 245 SCRA 242; *Freeman, Inc. vs. Securities and Exchange Commission*, 233 SCRA 735; *Carimol vs. NLRC*, 225 SCRA 582.

[20] *People vs. Magallanes*, 249 SCRA 212.

[21] G.R. No.100514, March 29, 1995, 243 SCRA 47.

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