

ESTATE OF THE LATE MENA BOLANOS, REPRESENTED BY AND IN THEIR PERSONAL CAPACITY, MODESTO L. BOLANOS, LETICIA BOLANOS-JIMENEZ AND NORA BOLANOS-TIONGSON, DULY REPRESENTED BY ROSA C...

G.R. No. 122950. November 20, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal from the decision of the Court of Appeals dismissing the petition for annulment of the compromise agreement of the parties.[1]

The facts, as found by the Court of Appeals, are as follows:

"Petitioners, Modesto L. Bolanos, Leticia Bolanos-Jimenez and Nora Bolanos-Tiongson and private respondents Lydia Bolanos vda. de Paranada, Mario Bolanos and Sulpicio Bolanos, Jr. and Fe Bolanos are the legitimate heirs of the late Mena Bolanos who died on January 8, 1992.

"Mena Bolanos WAS THE REGISTERED OWNER OF A RESIDENTIAL LOT COVERED BY TCT No. 296710 and all its improvements, located at No. 130 Kamias Road, Quezon City.

"On March 20, 1984, Mena, through her daughter and attorney-in-fact Lydia Bolanos, executed a Deed of Real Estate of Mortgage over the subject property to secure the principal obligation in the amount of Two Hundred Fifty Thousand (P250,000.00) Pesos in favor of one Remilla Arcega. When Mena failed to pay her obligation, Arcega caused the foreclosure of the mortgaged property. Thereafter, the subject property was sold at public auction to Arcega as the highest bidder and the corresponding certificate of sale was issued and was inscribed on March 3, 1987.

"Prior to the expiration of the redemption period, Lydia Bolanos, as attorney-in-fact of Mena, pleaded to Jerry Bania and Col. Florencio Saavedra to redeem the subject property and offered to sell the same to the latter with right to repurchase within one year from March 3, 1988, for Nine Hundred Sixty Thousand (P960,000.00) Pesos. Jerry Bania and Col. Saavedra accepted the proposal of Lydia which eventuated in the execution of an agreement to that effect. Upon the expiration of the one year period to repurchase, Mena failed to pay the said obligation of Nine Hundred Sixty Thousand (P960,000.00) Pesos despite repeated demands from Jerry Bania and Col. Saavedra, prompting Jerry Bania to file on October 20, 1989, a complaint for consolidation of ownership over the subject property, docketed as Civil Case No. Q-89-3817.

"On November 23, 1989, Jerry Bania and Col. Saavedra filed an Ex-Parte Motion to Admit Amended Complaint together with an amended complaint impleading Col. Florencio Saavedra as additional plaintiff and Five Sisters Realty and Development Corporation and the Register of Deeds of Quezon City as additional defendants.

"The Amended Complaint was admitted by the respondent Court, per its Order dated December 15, 1989. Private respondents Mario and Sulpicio Bolanos filed an amended answer in behalf of their mother Mena

whom they alleged to be incompetent to take care of herself and to manage her property. Mario entered his appearance in the said civil case as guardian ad litem of Mena and Sulpicio as the latter's counsel. Likewise, defendants Lydia Bolanos (a daughter of Mena) and Five Sisters Realty Development Corp. (Five Sisters) filed their separate amended answers. After the issues were joined, the case was set for pre-trial.

"After the series of postponements, the pre-trial was finally held on June 25, 1991, where private respondent Jerry Bania, as plaintiff therein, assisted by his counsel, and private respondents Lydia Bolanos-Paranada and Atty. Mario Bolanos, as guardian ad litem of Mena, assisted by their brother Sulpicio Bolanos, Jr., as defendants, entered into a compromise agreement in open court which was reduced to writing. The said compromise agreement was signed by Jerry Bania and his counsel Atty. Belmi in behalf of defendant Mena as the latter's guardian ad litem and Atty. Sulpicio Bolanos as her counsel. Lydia Bolanos-Paranada also signed the said agreement.

"On that same date, the parties submitted the said compromise agreement to the respondent court which approved the same in its "Order-Decision" now being assailed, thus:

`ORDER-DECISION'

"In view of the Compromise Agreement marked as Exhibit `X' , dated June 25, 1991, which was signed by the parties and their counsel, the same not being contrary to law, good morals, good customs and public policy, is hereby approved, as follows

`COMPROMISE AGREEMENT

"For the termination of this case, the plaintiff shall receive from the defendants One Million One Hundred Thousand (P1,100,000) Pesos, and plaintiff shall vacate the premises subject of this case within five months from the payment of said amount, which shall be made on or before ninety days from date hereof. Attorney's fees of P50,000.00 shall be paid by defendants to plaintiff. In case of default after ninety days, the unpaid amount shall earn 18% interest, without prejudice to a settlement between Five Sisters Realty and Development and defendants. Upon default of any party, execution may immediately be availed of:

(SGD) JERRY BANIA (SGD) Atty. PEDRO N. BELMI
Plaintiff Counsel for Plaintiff

(SGD) LYDIA B. PARANADA
Defendant

(SGD) ATTY. SULPICIO BOLANOS, JR.
Counsel for defendant
Mena Bolanos

(SGD) ATTY. MARIO L. BOLANOS
Guardian Ad Litem & Counsel

"SO ORDERED.

"When defendants Mena Bolanos and Lydia Bolanos, failed to perform their obligation under the said "compromise agreement", the respondent Court, upon motion of the plaintiff, issued an order of execution dated January 7, 1992.

"Meanwhile, on January 8, 1992 or a day after the said Order was issued, Mena Bolanos died.

"On September 18, 1992, the subject property was sold at public auction to plaintiff Jerry Bania and Virginia Cid (a representative of defendant Five Sisters Realty Development Corp.), as the highest bidders, in the amount of One Million Four Hundred Seven Thousand Six Hundred (P1,407,600.00) Pesos. The

corresponding certificate of sale in favor of Jerry Bania and Virginia Cid was issued and annotated as Entry PE-3293 on Transfer Certificate of Title No. 296710.

"On September 14, 1993 or after nearly a year from the date of sale in public auction, all the heirs of Mena Bolanos, namely, petitioners herein Modesto Bolanos, Leticia Bolanos-Jimenez, Nora Bolanos-Tiongson and respondents herein, Mario, Sulpicio and Lydia Bolanos and Fe Bolanos, through their brother and counsel Sulpicio Bolanos, filed in Civil Case No. Q-89-3817 a "motion to annul public bidding and, in the alternative, to clarify date of registration of the sheriff's certificate of sale", on the ground that there was irregularity in the conduct thereof as one of the bidders was not a party to Civil Case Q-89-3817.

"On September 24, 1993, the aforesaid motion was set for hearing and the above-named heirs of Mena (as movants) and Jerry Bania and Virginia Cid (as oppositors), through their respective counsels, argued on the said motion.

"On October 15, 1993, the respondent Court issued an Order, denying the motion to annul public bidding, etc., for lack of merit.

"On October 25, 1993, the same movants, again through their brother and counsel Sulpicio, filed a "Motion for Reconsideration" from the denial Order which was opposed by private respondents Jerry Bania and Virginia Cid. Upon the order of the respondent Court, said movants and oppositors submitted their respective memoranda in support of the said motion and the opposition thereto.

"By Order of the respondent Court dated April 12, 1994, the motion for reconsideration was denied. From the denial of their motion for reconsideration, movant-heirs of Mena Bolanos filed a Notice of Appeal. The respondent Court, however, "disapproved" such Notice of Appeal for being frivolous and dilatory. No action was ever taken therefrom.

"On August 25, 1994, the Registrar of Deed cancelled TCT No. 296710 covering the subject property and issued TCT No. 99326 in favor of Jerry Bania and Virginia Cid.

"In an eleventh hour attempt to recover the subject property, the herein petitioners, represented by Rosa C. Casas, filed the instant petition,[2] through another counsel, Samson, Montesa and Associates, seeking to annul the aforesaid "Order-Decision" on the following fundamental grounds:

"(1) That their brother Mario Bolanos appeared as guardian ad litem of their mother in Civil Case Q-89-3817 without court appointment, hence, Mena and petitioners as heirs of the later were not properly represented in Civil Case No. Q-89-3817; and

"(2) That Mario fraudulently connived with their brother Sulpicio, sister Lydia and private respondents Jerry Bania and Col. Saavedra in the execution of the compromise agreement which became the basis of the "Order Decision" in Civil Case No. Q-89-3817 sought to be annulled, to the damage and prejudice of Mena and the herein petitioners as heirs of the latter."

After due proceedings, on October 06, 1995, the Court of Appeals promulgated its decision dismissing the petition.[3]

Hence, this appeal.[4]

The basic issue raised is whether the order of the trial court approving the compromise agreement of the parties is void on the ground of fraud.

The issue raised is factual. We may not review the appellate court's findings of fact in an appeal via certiorari.[5] The findings of fact of the Court of Appeals supported by substantial evidence are conclusive and binding on the parties and are not reviewable by this Court,[6] unless the case falls under any of the exceptions to the rule,[7]

such as diverse factual findings of the lower courts[8] or the findings are entirely grounded on speculations.[9] Petitioners failed to prove that the case falls within the exceptions.[10]

We agree with the Court of Appeals that what petitioners actually seek is to annul the compromise agreement of the parties in Civil Case No. 89-3817. The grounds alleged are that their brother Mario appeared as guardian ad litem of their mother Mena Bolanos in Civil Case No. Q-89-3817 without judicial appointment, and that Mario connived with their brother Sulpicio in the execution of the compromise agreement. The grounds are insufficient to warrant annulment of the compromise agreement. We quote the following passage in the ruling of the Court of Appeals:

"The charge of fraud or irregularity allegedly committed by the herein private respondents in the execution of the Compromise Agreement is no longer availing as shown by the following disquisitions:

"The record of this case shows that after the subject property was sold to herein private respondents Jerry Bania and Virginia Cid in an auction sale as a consequence of the execution of the said "Order-Decision" based on Compromise Agreement, herein petitioners, together with the other heirs of Mena, filed a "Motion to Annul Public Bidding and in the alternative (2) to clarify date of registration." Through their brother and counsel Atty. Sulpicio Bolanos who was the very same lawyer who filed in behalf of Mena an amended answer, verified by their brother Mario as Mena's guardian ad litem, in Civil Case No. Q-89-3817 and who since then appeared and acted as counsel of Mena in said case.

"In their motion to annul public bidding, etc., herein petitioners have not made mention of any fraud or irregularity which attended the execution of the subject compromise agreement and the proceedings in Civil Case No. Q-89-3817. Their only ground in seeking the annulment of such public bidding was that there was irregularity in the conduct thereof as one of the bidders was not a party to Civil Case Q-89-3817. If there was really truth as to their present remonstrance, why did petitioners not raise such fraud or irregularity in their aforesaid motion. It could and should have been the plausible ground upon which the public bidding, or even the "execution" of the Order-Decision, may be anchored. The principle of estoppel would then apply. The principle underlying such estoppel is embodied in the maxim "one who is silent when he ought to speak will not be heard to speak when he ought to be silent.

"It may be amiss for petitioner to now assert that they have no knowledge of the circumstances involving Civil Case No. Q-89-3817 including the execution of the questioned compromise agreement. For, it is foolhardy to believe that herein petitioners have not inquired from their two brother-lawyers who acted as counsel and guardian ad litem, respectively, or were not even apprised by their brother-counsel, Sulpicio Bolanos, of the circumstances surrounding the 'public bidding' which they sought to annul in their motion to annul public bidding, etc. Presumptively, they must have knowledge or should have known about the circumstances surrounding Civil Case No. Q-89-3817 including the execution of the compromise agreement. They are charged with knowledge and cannot feign ignorance that they have no knowledge of such facts to relieve them from their negligence or inattention.

"Ironically, petitioners allowed themselves to be represented by their brother Sulpicio in filing their 'motion to annul public bidding, etc.,' thus raising the incontrovertible conclusion that they have knowledge and/or have acquiesced in the conduct of Civil Case No. Q-89-3817 including the execution of the compromise agreement upon which the assailed Order-Decision in said case was based.

"It should be noted that if petitioners honestly believe that their brothers Mario and Sulpicio fraudulently connived with private respondent Jerry Bania, they would not have filed said "motion to annul public bidding, etc. "through their brother Sulpicio as it is highly improbable for petitioners to allow themselves to be represented by a counsel whom they believe to have connived against their interest.

"A fortiori, the authority of their brother, Atty. Sulpicio Bolanos, Jr., to appear for and in behalf of Mena

Bolanos in Civil Case No. Q-89-3817 can be assumed, unless questioned or challenged by the adverse party or the party concerned. Herein petitioners have not challenged the authority of their brother-lawyer to appear for and in behalf of their mother Mena. Hence, petitioners have no reason to protest that their deceased mother was not properly represented in Civil Case No. Q-89-3817.

"Considered in the light of the foregoing disquisitions, We find and so hold that if ever there was fraud or irregularity in the way Civil Case No. Q-89-3817 had proceeded including the execution of the Compromise Agreement, the same had been ratified by petitioners' subsequent conduct and are now estopped from raising such fraud or irregularity. Consequently, there can be no plausible reason to justify the annulment of the Order-Decision of the respondent Court which was based on the aforesaid Compromise Agreement.[11]

Hence, the Court of Appeals did not err in dismissing the petition for annulment of the order approving the compromise agreement.

IN VIEW WHEREOF, the Court DENIES the petition for review, and AFFIRMS the decision of the Court of Appeals in CA-G. R. SP No. 35851 dismissing the petition for annulment.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP No. 35851, promulgated on October 06, 1995, Abad Santos, Jr., J. ponente, Purisima, and Vidallon-Magtolis, JJ., concurring.

[2] Filed with the Court of Appeals on October 6, 1995, CA-G. R. SP No. 35851.

[3] Petition, Annex "B", Rollo, pp. 40-48.

[4] Filed on January 12, 1996, Petition, Rollo, pp.8-33. On September 27, 1999, we gave due course to the petition, Rollo, p. 130.

[5] Rongavilla vs. Court of Appeals, 294 SCRA 289 [1998]; Cristobal vs. Court of Appeals, 353 Phil. 318 [1998]; Sarmiento vs. Court of Appeals, 353 Phil. 834 [1998].

[6] Atillo vs. Court of Appeals, 334 Phil. 546 [1997].

[7] Cebu Shipyard and Engineering Works, Inc. vs. William Lines, Inc., 306 SCRA 762, 774-775 [1999]; Fuentes vs. Court of Appeals, 335 Phil. 1163 [1997].

[8] Yobido vs. Court of Appeals, 346 Phil. 1 [1997].

[9] Philippine Deposit Insurance Corporation vs. Court of Appeals, 347 Phil. 741 [1997].

[10] Rivera vs. Court of Appeals, 348 Phil. 734, 743 [1998].

[11] Rollo, pp. 46-47.

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