

PILAR S. VDA. DE MANALO, ANTONIO S. MANALO, ORLANDO S. MANALO, AND ISABELITA MANALO, PETITIONERS, VS. HON. COURT OF APPEALS, HON. REGIONAL TRIAL COURT OF MANILA (BRANCH 35), PUR...

G.R. No. 129242. January 16, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

This is a petition for review on certiorari filed by petitioners Pilar S. Vda. De Manalo, et. al., seeking to annul the Resolution[1] of the Court of Appeals[2] affirming the Orders[3] of the Regional Trial Court and the Resolution[4] which denied petitioner's motion for reconsideration.

The antecedent facts[5] are as follows:

Troadio Manalo, a resident of 1966 Maria Clara Street, Sampaloc, Manila died intestate on February 14, 1992. He was survived by his wife, Pilar S. Manalo, and his eleven (11) children, namely: Purita M. Jayme, Antonio Manalo, Milagros M. Terre, Belen M. Orillano, Isabelita Manalo, Rosalina M. Acuin, Romeo Manalo, Roberto Manalo, Amalia Manalo, Orlando Manalo, and Imelda Manalo, who are all of legal age.

At the time of his death on February 14, 1992, Troadio Manalo left several real properties located in Manila and in the province of Tarlac including a business under the name and style Manalo's Machine Shop with offices at No. 19 Calavite Street, La Loma, Quezon City and at No. 45 Gen. Tinio Street, Arty Subdivision, Valenzuela, Metro Manila.

On November 26, 1992, herein respondents, who are eight (8) of the surviving children of the late Troadio Manalo, namely: Purita, Milagros, Belen, Rosalina, Romeo, Roberto, Amalia, and Imelda filed a petition[6] with the respondent Regional Trial Court of Manila[7] for the judicial settlement of the estate of their late father, Troadio Manalo, and for the appointment of their brother, Romeo Manalo, as administrator thereof.

On December 15, 1992, the trial court issued an order setting the said petition for hearing on February 11, 1993 and directing the publication of the order for three (3) consecutive weeks in a newspaper of general circulation in Metro Manila, and further directing service by registered mail of the said order upon the heirs named in the petition at their respective addresses mentioned therein.

On February 11, 1993, the date set for hearing of the petition, the trial court issued an order "declaring the whole world in default, except the government," and set the reception of evidence of the petitioners therein on March 16, 1993. However, this order of general default was set aside by the trial court upon motion of herein petitioners (oppositors therein) namely: Pilar S. Vda. De Manalo, Antonio, Isabelita and Orlando who were granted ten (10) days within which to file their opposition to the petition.

Several pleadings were subsequently filed by herein petitioners, through counsel, culminating in the filing of an

Omnibus Motion[8] on July 23, 1993 seeking: (1) to set aside and reconsider the Order of the trial court dated July 9, 1993 which denied the motion for additional extension of time to file opposition; (2) to set for preliminary hearing their affirmative defenses as grounds for dismissal of the case; (3) to declare that the trial court did not acquire jurisdiction over the persons of the oppositors; and (4) for the immediate inhibition of the presiding judge.

On July 30, 1993, the trial court issued an order[9] which resolved, thus:

- To admit the so-called Opposition filed by counsel for the oppositors on July 20, 1993, only for the purpose of considering the merits thereof;
- To deny the prayer of the oppositors for a preliminary hearing of their affirmative defenses as ground for the dismissal of this proceeding, said affirmative defenses being irrelevant and immaterial to the purpose and issue of the present proceeding;
- To declare that this court has acquired jurisdiction over the persons of the oppositors;
- To deny the motion of the oppositors for the inhibition of this Presiding Judge;
- To set the application of Romeo Manalo for appointment as regular administrator in the intestate estate of the deceased Troadio Manalo for hearing on September 9, 1993 at 2:00 o'clock in the afternoon.

Herein petitioners filed a petition for certiorari under Rule 65 of the Rules of Court with the Court of Appeals, docketed as CA-G.R. SP. No. 39851, after their motion for reconsideration of the Order dated July 30, 1993 was denied by the trial court in its Order[10] dated September 15, 1993. In their petition for certiorari with the appellate court, they contend that: (1) the venue was improperly laid in SP. PROC. No. 92-63626; (2) the trial court did not acquire jurisdiction over their persons; (3) the share of the surviving spouse was included in the intestate proceedings; (4) there was absence of earnest efforts toward compromise among members of the same family; and (5) no certification of non-forum shopping was attached to the petition.

Finding the contentions untenable, the Court of Appeals dismissed the petition for certiorari in its Resolution[11] promulgated on September 30, 1996. On May 6, 1997 the motion for reconsideration of the said resolution was likewise dismissed.[12]

The only issue raised by herein petitioners in the instant petition for review is whether or not the respondent Court of Appeals erred in upholding the questioned orders of the respondent trial court which denied their motion for the outright dismissal of the petition for judicial settlement of estate despite the failure of the petitioners therein to aver that earnest efforts toward a compromise involving members of the same family have been made prior to the filing of the petition but that the same have failed.

Herein petitioners claim that the petition in SP. PROC No. 92-63626 is actually an ordinary civil action involving members of the same family. They point out that it contains certain averments which, according to them, are indicative of its adversarial nature, to wit:

x x x

Par. 7.

One of the surviving sons, ANTONIO MANALO, since the death of his father, TROADIO MANALO, had not made any settlement, judicial or extra-judicial of the properties of the deceased father, TROADIO MANALO.

Par. 8.

xxx the said surviving son continued to manage and control the properties aforementioned, without proper accounting, to his own benefit and advantage xxx.

x x x

Par. 12.

That said ANTONIO MANALO is managing and controlling the estate of the deceased TROADIO MANALO to his own advantage and to the damage and prejudice of the herein petitioners and their co-heirs xxx.

x x x

Par. 14.

For the protection of their rights and interests, petitioners were compelled to bring this suit and were forced to litigate and incur expenses and will continue to incur expenses of not less than, P250,000.00 and engaged the services of herein counsel committing to pay P200,000.00 as and for attorney's fees plus honorarium of P2,500.00 per appearance in court xxx.[13]

Consequently, according to herein petitioners, the same should be dismissed under Rule 16, Section 1(j) of the Revised Rules of Court which provides that a motion to dismiss a complaint may be filed on the ground that a condition precedent for filing the claim has not been complied with, that is, that the petitioners therein failed to aver in the petition in SP. PROC. No. 92-63626, that earnest efforts toward a compromise have been made involving members of the same family prior to the filing of the petition pursuant to Article 222[14] of the Civil Code of the Philippines.

The instant petition is not impressed with merit.

It is a fundamental rule that, in the determination of the nature of an action or proceeding, the averments[15] and the character of the relief sought[16] in the complaint, or petition, as in the case at bar, shall be controlling. A careful scrutiny of the Petition for Issuance of Letters of Administration, Settlement and Distribution of Estate in SP. PROC. No. 92-63626 belies herein petitioners' claim that the same is in the nature of an ordinary civil action. The said petition contains sufficient jurisdictional facts required in a petition for the settlement of estate of a deceased person such as the fact of death of the late Troadio Manalo on February 14, 1992, as well as his residence in the City of Manila at the time of his said death. The fact of death of the decedent and of his residence within the country are foundation facts upon which all the subsequent proceedings in the administration of the estate rest.[17] The petition in SP. PROC. No. 92-63626 also contains an enumeration of the names of his legal heirs including a tentative list of the properties left by the deceased which are sought to be settled in the probate proceedings. In addition, the reliefs prayed for in the said petition leave no room for doubt as regard the intention of the petitioners therein (private respondents herein) to seek judicial settlement of the estate of their deceased father, Troadio Manalo, to wit:

PRAYER

WHEREFORE, premises considered, it is respectfully prayed for of this Honorable Court:

(a)

That after due hearing, letters of administration be issued to petitioner ROMEO MANALO for the administration of the estate of the deceased TORADIO MANALO upon the giving of a bond in such reasonable sum that this Honorable Court may fix.

(b)

That after all the properties of the deceased TROADIO MANALO have been inventoried and expenses and just debts, if any, have been paid and the legal heirs of the deceased fully determined, that the said estate of

TROADIO MANALO be settled and distributed among the legal heirs all in accordance with law.

c)

That the litigation expenses o these proceedings in the amount of P250,000.00 and attorney's fees in the amount of P300,000.00 plus honorarium of P2,500.00 per appearance in court in the hearing and trial of this case and costs of suit be taxed solely against ANTONIO MANALO.[18]

Concededly, the petition in SP. PROC. No. 92-63626 contains certain averments which may be typical of an ordinary civil action. Herein petitioners, as oppositors therein, took advantage of the said defect in the petition and filed their so-called Opposition thereto which, as observed by the trial court, is actually an Answer containing admissions and denials, special and affirmative defenses and compulsory counterclaims for actual, moral and exemplary damages, plus attorney's fees and costs[19] in an apparent effort to make out a case of an ordinary civil action an ultimately seek its dismissal under Rule 16, Section 1(j) of the Rules of Court vis-à-vis, Article 222 of the Civil Code.

It is our view that herein petitioners may not be allowed to defeat the purpose of the essentially valid petition for the settlement of the estate of the late Troadio Manalo by raising matters that are irrelevant and immaterial to the said petition. It must be emphasized that the trial court, sitting, as a probate court, has limited and special jurisdiction[20] and cannot hear and dispose of collateral matters and issues which may be properly threshed out only in an ordinary civil action. In addition, the rule has always been to the effect that the jurisdiction of a court, as well as the concomitant nature of an action, is determined by the averments in the complaint and not by the defenses contained in the answer. If it were otherwise, it would not be too difficult to have a case either thrown out of court or its proceedings unduly delayed by simple strategem.[21] So it should be in the instant petition for settlement of estate.

Herein petitioners argue that even if the petition in SP. PROC. No. 92-63626 were to be considered as a special proceeding for the settlement of estate of a deceased person, Rule 16, Section 1(j) of the Rules of Court vis-a-vis Article 222 of the Civil Code of the Philippines would nevertheless apply as a ground for the dismissal of the same by virtue of Rule 1, Section 2 of the Rules of Court which provides that the "rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding." Petitioners contend that the term "proceeding" is so broad that it must necessarily include special proceedings.

The argument is misplaced. Herein petitioners may not validly take refuge under the provisions of Rule 1, Section 2, of the Rules of Court to justify the invocation of Article 222 of the Civil Code of the Philippines for the dismissal of the petition for settlement of the estate of the deceased Troadio Manalo inasmuch as the latter provision is clear enough, to wit:

Art. 222. No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward a compromise have been made, but that the same have failed, subject to the limitations in Article 2035 (underscoring supplied).[22]

The above-quoted provision of the law is applicable only to ordinary civil actions. This is clear from the term "suit" that it refers to an action by one person or persons against another or others in a court of justice in which the plaintiff pursues the remedy which the law affords him for the redress of an injury or the enforcement of a right, whether at law or in equity.[23] A civil action is thus an action filed in a court of justice, whereby a party sues another for the enforcement of a right, or the prevention or redress of a wrong.[24] Besides, an excerpt from the Report of the Code Commission unmistakably reveals the intention of the Code Commission to make that legal provision applicable only to civil actions which are essentially adversarial and involve members of the same

family, thus:

It is difficult to imagine a sadder and more tragic spectacle than a litigation between members of the same family. It is necessary that every effort should be made toward a compromise before a litigation is allowed to breed hate and passion in the family. It is known that lawsuit between close relatives generates deeper bitterness than strangers.[25]

It must be emphasized that the oppositors (herein petitioners) are not being sued in SP. PROC. No. 92-63626 for any cause of action as in fact no defendant was impleaded therein. The Petition for Issuance of Letters of Administration, Settlement and Distribution of Estate in SP. PROC. No. 92-63626 is a special proceeding and, as such, it is a remedy whereby the petitioners therein seek to establish a status, a right, or a particular fact.[26] The petitioners therein (private respondents herein) merely seek to establish the fact of death of their father and subsequently to be duly recognized as among the heirs of the said deceased so that they can validly exercise their right to participate in the settlement and liquidation of the estate of the decedent consistent with the limited and special jurisdiction of the probate court.

WHEREFORE, the petition in the above-entitled case, is DENIED for lack of merit. Costs against petitioners.

SO ORDERED.

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

[1] In CA-G.R. SP. No. 39851 promulgated on September 30, 1996, Petition, Annex "G", Rollo, pp. 52-59.

[2] Galvez, J., ponente, Martinez and Aquino, JJ., concurring; Rollo, pp. 52-59.

[3] In SP. PROC. No. 92-63626 respectively dated July 30, 1993 and September 15, 1993, Petition, Annexes "D" and "F", Rollo, pp. 35-44; 51.

[4] In CA-G.R. S.P. No. 39851 promulgated on May 6, 1997, Petition, Annex "K", Rollo, pp. 70-77.

[5] Petition, Annex "G", Rollo, pp. 52-59.

[6] Petition, Annex "A", Rollo, pp. 18-25.

[7] Branch 35, Presided by Judge Ramon P. Makasiar.

[8] Petition, Annex "C", Rollo, pp. 27-34.

[9] Petition, annex "D", supra.

[10] Petition, Annex "F", supra.

[11] Petition, Annex "G", supra.

[12] Petition, Annex "K", supra.

[13] Petition, Annex "A", Rollo, pp. 21-23.

[14] Now Article 151 of the Family Code of the Philippines.

[15] *De Tavera vs. Philippine Tuberculosis Society, Inc.* 112 SCRA 243, 248 (1982).

[16] *Movers-Baseco Integrated Port Services, Inc. vs. Cyborg Leasing Corporation*, 317 SCRA 327, 335 (1999).

[17] Pilipinas Shell Petroleum Corporation vs. Dumlao, 206 SCRA 40, 46 (1992).

[18] Petition, Annex "A", Rollo, pp. 23-24.

[19] Petition, Annex "D", Rollo, pp. 39-43.

[20] Guzman vs. Anog, 37 Phil. 61, 62 (1917); Borja vs. Borja, et al., 101 Phil 911, 925 (1957) cited in the Revised Rules of Court in the Philippines, Volume V-A Part I, 1970 Ed. By Vicente J. Francisco.

[21] Chico vs. Court of Appeals, 284 SCRA 33, 36 (1998).

[22] Article 151 of the Family Code of the Philippines now reads:

Art. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

[23] Black's Law Dictionary, Sixth Ed., 1990, citing Kohl v. U.S., 91 U.S. 367, 375, 23 L.Ed. 449; Weston v. Charleston, 27 U.S. (2 Pet.) 449, 464, 7 L.Ed. 481; Syracuse Plaster Co. v. Agostini Bros. Bldg. Corporation, 169 Misc. 564, 7 N.Y. S.2d 897.

[24] Rule 1, Section 3(a) of the Rules of Court.

[25] Report of the Code of Commission, p. 18 cited in the Civil Code of the Philippines, Commentaries and jurisprudence, Vol. 1, 1995 Ed. By Arturo M. Tolentino, p. 505.

[26] Rule 1, Section 3© of the Rules of Court.

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