

NICANOR T. SANTOS, PETITIONER, VS. COURT OF APPEALS, CONSUELO T. SANTOS-GUERRERO AND ANDRES GUERRERO, RESPONDENTS.

G.R. No. 134787. November 15, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Jurisprudence is replete with cases of close family ties sadly torn apart by disputes over inheritance. This is one of them and, for sure, will not be the last.

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Nicanor T. Santos assails and seeks to set aside the Decision dated March 24, 1998[1] of the Court of Appeals (CA) in C.A. G.R. CV No. 50060 dismissing his appeal from the amended decision dated July 27, 1995 of the Regional Trial Court of Malabon-Navotas in Civil Case No. 1784-MN, an action for revival of judgment.

The facts:

Petitioner Nicanor T. Santos and private respondent Consuelo T. Santos-Guerrero are brother and sister, born to spouses Urbano Santos and Candelaria Santos, now both deceased. Sometime in 1956, Nicanor, Consuelo and eight of their siblings, executed a "Basic Agreement of Partition" covering properties they inherited from their parents.

Two years later, Consuelo, joined by her husband, herein respondent Andres Guerrero (collectively, the "Guerreros"), filed suit with the then Court of First Instance (CFI) of Rizal against petitioner Nicanor and two (2) other brothers, for recovery of inheritance. Docketed as Civil Case No. 4871 and raffled to Branch VI of the court, the complaint, inter alia, sought to have the aforementioned 1956 Agreement of Partition judicially declared valid.

Pending resolution of Civil Case No. 4871, the following events transpired:

- The Santos heirs executed on May 5, 1959 another document, denominated "Deed of Partition (With More Corrections)". In it, the properties allotted to the heirs belonging to "Group 4", to which Consuelo and Nicanor belonged, were divided into four (4) shares. Share No. 3 was adjudicated to Nicanor who, however, was obligated to pay Consuelo the amount of P31,825.00.
- Spouses Guerreros filed another complaint against petitioner Nicanor, docketed as Civil Case No. 5858 of CFI-Rizal, for the recovery of her (Consuelo's) share under the May 5, 1959 Deed of Partition.

Civil Case No. 4871 and Civil Case No. 5858 would subsequently be consolidated before the CFI-Rizal, Branch 11, presided, according to petitioner, by Judge Andres Reyes. On November 27, 1960, Judge Reyes rendered a decision (Exh."5"), disposing as follows:

IN VIEW OF THE FOREGOING, the Court hereby renders judgment, ordering the defendant [herein petitioner] to comply with his part of the Deed of Partition and deliver to the plaintiff [respondent Consuelo]

the amount of P26,650.00 without prejudice to the right of reimbursement under the same deed. No pronouncement as to costs.

SO ORDERED. (Words in bracket supplied)[2]

Subsequently, the Guerreros instituted another complaint against Nicanor with the CFI at Pasig for recovery of sums of money under the May 5, 1959 Deed of Partition. For some reason unclear from the records and which the parties have not explained, the case was also assigned docket number Civil Case No. 5858. It was raffled to Branch VI of the court, presided by Judge Eutropio Migriño.[3] Thereat, Nicanor, as defendant a quo, filed a third party complaint against brothers Ernesto et al. And albeit not touched upon in the basic pleadings, the issue of whether Nicanor was obligated to pay Consuelo the amount of P31,825.00, as stated in the 1959 deed of partition, or the amount of P26,650.00, as decreed in Exhibit "5", was raised in the parties' respective memoranda.[4] In fact, during the hearing of this particular case, the Guerreros filed a "Manifestation and Motion", stating as follows:

- That they agree to submit this case . . . on the basis of the total amount of P34, 825.00 due to the plaintiff, Consuelo T. Santos-Guerrero, minus P8,175.00 due to Group 8, or a net balance of P26,650.00 in favor of the plaintiff

- xxx

- That they finally agree that the total net balance of P26,650.00 plus the interest thereon and attorney's fees in the amount which this Honorable Court will determine, shall be paid by the defendant-third party plaintiff Nicanor T. Santos and all of the third-party defendants

WHEREFORE, it is respectfully prayed . . . that judgment be rendered in the above-entitled case in accordance with the foregoing terms and conditions.

Eventually, on December 28, 1979, Judge Migriño rendered judgment (Exh. "A") ordering Nicanor, as defendant a quo, to pay Consuelo P31,825.00, representing the amount due her under the May 5, 1959 deed of partition, plus damages and attorney's fees.[5]

In time, Nicanor went to the Intermediate Appellate Court (IAC), now CA, where his appellate recourse was docketed as CA-G.R. No. 69008-CV. In a Decision dated October 21, 1985, the IAC affirmed the December 28, 1979 CFI decision of Judge Migriño, but reduced the award of moral damages. Nicanor's petition for review of the IAC decision would subsequently be denied by this Court per its Resolution dated February 19, 1986 in G.R. No. L-73121.[6] Following the issuance by the Court of an Entry of Judgment on April 1, 1986,[7] the records were subsequently remanded to the trial court. For some reason, however, the Guerreros did not pursue execution of the judgment.

A little over six (6) years later, or on June 3, 1992, to be precise, the Guerreros filed a complaint for revival of the December 28, 1979 decision of Judge Migriño (Exh. "A"), docketed as Civil Case No. 1784-MN of the Regional Trial Court (RTC) of Malabon-Navotas. Petitioner Nicanor, as defendant, countered with a motion to dismiss on several grounds, among which were: (a) that the complaint for revival of judgment is barred under the res judicata rule; and (b) that the suit is between members of the same family and no earnest efforts towards an amicable settlement have been made.

After due proceedings, the RTC of Malabon-Navotas dismissed the complaint for revival of judgment. However, on motion for reconsideration and following a new trial, the trial court reversed itself and, accordingly, rendered on July 27, 1995 an amended decision, the fallo of which reads:

WHEREFORE, judgment is hereby rendered reviving the Decision dated December 28, 1979 in Civil Case No.

5858 and correspondingly, [petitioner] is hereby ordered to pay [private respondents] as follows.

- a) THIRTY ONE THOUSAND EIGHT HUNDRED TWENTY FIVE PESOS (P31,825.00) representing the amount due from him to her under their deed of partition of May 5, 1959;
- b) TWENTY FIVE THOUSAND PESOS (P25,000.00) by way of unrealized profits;
- c) FIVE THOUSAND PESOS (P5,000.00) by way of moral damages; and
- d) FIVE THOUSAND PESOS (P5,000.00) by way of attorney's fees, all which sums shall be with interest at the rate of six percent (6%) from October 30, 1959 when the complaint was filed, up to and including July 28, 1974 and at the rate of twelve percent (12%) from July 29, 1974 until fully paid.

SO ORDERED. (Words in bracket added)

Therefrom, Nicanor went on appeal to the CA whereat his recourse was docketed as CA G.R. CV No. 50060. On March 24, 1998, the appellate court rendered the herein assailed Decision dismissing the appeal.[8] A Resolution of July 24, 1998 denying Nicanor's motion for reconsideration followed.[9]

Hence, this instant petition for review,[10] petitioner ascribing to the Court of Appeals the commission of the following "serious" errors, viz:

- In holding that Article 222 of the New Civil Code in relation to Section 1(j), Rule 16 of the Rules of Court has no application, and if there is, the subsequent act of herein petitioner already achieved that purpose;
- In disregarding the fact that the decision issued by Judge Eutropio Migriño is null and void for being barred by res judicata and therefore cannot be revived; and
- In not ruling that the action based on the decision issued by Judge Andres Reyes is already barred by prescription.

The petition has no merit.

A lawsuit between close relatives generates deeper bitterness than between strangers.[11] Thus, the provision making honest efforts towards a settlement a condition precedent for the maintenance of an action between members of the same family. As it were, a complaint in ordinary civil actions involving members of the same family must contain an allegation that earnest efforts toward a compromise have been made pursuant to Article 222[12] of the Civil Code, now pursuant to Article 151 of the Family Code.[13] Otherwise, the complaint may be dismissed under Section 1(j), Rule 16 of the Rules of Court.[14] Admittedly, the complaint filed in this case contains no such allegation. But a complaint otherwise defective on that score may be cured by the introduction of evidence effectively supplying the necessary averments of a defective complaint.[15]

Petitioner cannot plausibly look to Article 222 of the Civil Code to effectively dismiss, as presently urged, Civil Case No. 1784 MN. It cannot be over-emphasized in this regard that the rationale of said provision is to obviate hatred and passion in the family likely to be spawned by litigation between and among the members thereof. Civil Case No. 1784 MN, however, being merely an action for revival of judgment of a dormant decision rendered in an original action, can hardly be the kind of suit contemplated in Article 222 of the Code. What the appellate court said in the decision subject of review on the inapplicability under the premises of Article 222 of the Code is well-taken:

xxx The rule should have been invoked by [petitioner] in the original action [Civil Case 5858 subject of appeal in CA-G.R No. 69008-CV) where the actual controversy is still at issue and not in the present case where the actual controversy between the parties had already been decided by the Court and what remains to be done is the enforcement of the decision. [At p. 8; Words in bracket added]

Certainly not lost on the Court is an incident during the pre-trial of Civil Case No. 1784 MN which very well addressed, as aptly noted by the appellate court, the ideal sought to be achieved by said Article 222. We refer to petitioner's act, via a proposal, of extending a conciliatory hand to his elder sister in a failed bid to arrive at an amicable settlement. An excerpt of petitioner's written proposal:

We are fast approaching the "cross-road of our journey". I am now 75 years and [respondent Consuelo] is passed (sic) 78. It is unfortunate that for the past 30 years we had been quarrelling about this partition and I feel embarrassed

I appeal to the conscience and understanding of the [respondent] and by way of compromise settlement, I offer to pay [her] the amount of P5,000.00 in lieu of my original obligation of P3,536.11

Your HONOR, I am very sorry. Allow me to apologize . . . for bringing our family problem to this courtroom which should had been settled among us privately. (At pp. 8-9 of CA's Decision; Words in bracket added)

This bring us to the inter-related second and third assignments of error both of which question, in the light of Exhibit "5" (the joint decision dated November 27, 1960 of Judge Reyes.[16]), the validity of Exhibit "A", the December 28, 1979 decision (of Judge Migriño), the revival of which is challenged in this case.

Petitioner contends that the "Judgment dated 28 December 1979 rendered by Judge Migriño which is the basis of the present case is null and void for being barred by res judicata. Said decision, petitioner adds, "had already been the subject of a prior Decision rendered by Judge Andres Reyes on 27 November 1960."

We are not persuaded.

Res judicata, according to Black, refers to "the rule that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action." [17] It embraces two concepts: a) the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action; this is designated as "bar by former judgment"; and, b) precludes the relitigation of a particular fact or issues in another action between the same parties on a different claim or cause of action. This is the rule on "conclusiveness of judgment". [18]

Contrary to petitioner's understanding of the doctrine, res judicata, assuming its applicability on a given situation, is not a nullifying factor, such that the final judgment in the former action works to nullify the proceedings in the subsequent action where the doctrine is invoked. In context, res judicata is a rule of preclusion to the end that facts or issues settled by final judgment should not be tried anew. [19] Section 1, Rule 16 of the Rules of Courts lists res judicata as among the grounds for a motion to dismiss or as a defense to defeat a claim, but the same must be pleaded at the earliest opportunity, either in a motion to dismiss or in the answer. Else, the defense or objection on that ground is deemed waived. [20]

The Court distinctly notes that Exhibit "A" (Migriño decision), which petitioner described as a nullity owing to the operation of res judicata, was, as earlier narrated, affirmed first by the IAC, then by this Court, per its Resolution of February 19, 1986 in G.R. No. L-73121. [21] The implication of these affirmatory actions on the issue of the validity or nullity of Exhibit "A" need no further belaboring.

The Court observes likewise petitioner's seeming lack of spirit, if not reasons, to support his position on the issue of res judicata and the consequent effects thereof on the final outcome of this case. Consider: Save for copies of the impugned CA decision and resolution, the basic petition for review was filed with this Court without annexes to support petitioner's narration of facts whence he drew his conclusions. Worse still, petitioner did not even take serious effort to explain why he believed the doctrine of res judicata should be applied. All he virtually does is to

state that "xxx after Judge Reyes decided Civil Case No. 5858, all the issues therein were already put to rest [and] [T]he subsequent re-opening of the same by Judge Migriño was without any legal basis and renders [the latter's] decision null and void." In net effect, petitioner has not demonstrated, but assumed the existence of the requisites of res judicata and peremptorily pronounced the nullificatory effect thereof on Exhibit "A". Needless to state, simplistic conclusions and gratuitous assumptions drawn from unestablished facts are unacceptable norms for an intelligent judgment.

The third assigned error is also undeserving of consideration predicated, as it were, on the erroneous proposition that the decision sought to be revived is Exhibit "5" issued, to repeat, on November 27, 1960, not Exhibit "A", which petitioner tags as a void decision despite its having been affirmed by the IAC and this Court. As did the RTC of Malabon-Navotas, the Court of Appeals found Exhibit "5" and Exhibit "A" to have resolved two (2) separate complaints, each based on different causes of actions or claims. This factual determination, needless to state, deserves great respect. Surely, petitioner's declaration, without more, that Exhibit "5" and Exhibit "A" resolved one and the same cause of action involving the same parties cannot be the kind of evidence sufficient to overturn such factual finding.

WHEREFORE, the instant petition is DENIED and the impugned decision of the Court of Appeals AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Corona, and Carpio-Morales, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

[1] Penned by Associate Justice Romeo J. Callejo, Sr. (now a member of this Court), with Associate Justices Angelina Sandoval-Gutierrez (now also a member of this Court) and Omar U. Amin, (ret.), concurring; Annex "A", Petition; Rollo, pp. 8-13.

[2] Exh. "5", per CA Decision, p. 3; Rollo, p. 10.

[3] Petition, p. 6; Rollo, p. 29.

[4] CA Decision, p. 3; Rollo, p. 10.

[5] Ibid., p. 4; Rollo, p. 11.

[6] Id., p. 5; Rollo, p. 12; Petition, p. 6; Rollo pp. 29-30.

[7] Exh. "C", CA Decision, p. 5; Rollo, p. 12.

[8] See Note #1, supra.

[9] Rollo, p. 58.

[10] Rollo, pp. 24-42.

[11] Magbaleta vs. Gonong, 76 SCRA 511 [1977]; Vda de Manalo vs. CA, 349 SCRA 135 [2001], citing Report of the Code Commission.

[12] 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 the same have failed, subject to limitations in Article 2035.

[13] 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 the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed. xxx.

[14] A motion to dismiss a claim may be made on the ground "[T]hat a condition precedent for filing the claim has not been complied with."

[15] O'Lao vs. Co Cho Chit, 220 SCRA 656 [1993].

[16] See Note #2, *supra*.

[17] Black's Law Dictionary, 6[th]Ed., p. 1305, cited in Gutierrez vs. Court of Appeals, 193 SCRA 437 [1991].

[18] Calalang vs. Register of Deeds, 231 SCRA 88 (1994).

[19] Allied Bank vs. CA, 229 SCRA 252 (1994).

[20] Sec. 1, Rule 9, Rules of Court.

[21] See Note # 6, *supra*.

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