

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ASSET
PRIVATIZATION TRUST, PETITIONER, VS. THE HEIRS OF SANCHE
MAGDATO, REPRESENTED BY NELSON M. FERRIOL, RESPONDENTS.**

G.R. No. 137857. September 11, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In an action for quieting of title, recovery of possession and ownership of a parcel of land, and damages, the mortgagee of the equipment and other improvements located on the land is not an indispensable party, if the said mortgagee does not claim any right to ownership or possession of such real estate. Hence, the non-joinder of the mortgagee in such suit does not justify an annulment of the judgment thereon on the ground of extrinsic fraud.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court. The Petition assails the January 18, 1999 Resolution[1] of the Court of Appeals (CA) in CA-GR SP No. 49976, which reads as follows:

"The petition for annulment of judgment in Civil Case No. V-1040 of Branch 81 of the Regional Trial Court of Romblon raising essentially intrinsic fraud and factual issues, in addition, the Court resolved to DISMISS the petition." [2] (sic)

Also assailed is the May 5, 1999 CA Resolution,[3] which denied the Motion for Reconsideration.

The trial court ruling[4] sought to be annulled by petitioner was issued by the Regional Trial Court (RTC) of Romblon, Romblon on January 31, 1994 in Civil Case No. V-1040. The case -- for quieting of title, recovery of possession and ownership, and damages - was entitled "Heirs of Sancho Magdato, herein represented by Nelson M. Ferriol[,] v. Imperial Marble and Exploration Corporation and Ramon S. Dino, President and General Manager; Filipinas Marble Corporation and Vicente D. Millora, President and/or Chairman of the Board." It disposed as follows:[5]

"WHEREFORE, judgment is rendered:

a)

Ordering the defendants to vacate lot 898 and restoring plaintiff in possession thereof as true and lawful owner of the same;

b)

Ordering the defendants jointly and severally to pay plaintiff the rentals due on the property from January 1970 up to December 1993 in the amount of seventeen thousand six hundred two pesos and thirty six centavos (P17,602.36), and the amount of three hundred ninety six pesos and ninety centavos (P396.90) every six months thereafter until the plaintiff is restored in possession of the land, with interest on both amounts at the

legal rate from January 15, 1990 until fully paid;

c)

Ordering the defendants jointly and severally to pay plaintiff moral damages in the sum of thirty thousand pesos (P30,000.00) and the amount of fifty thousand pesos (P50,000.00) as exemplary damages; and ten thousand pesos (P10,000.00) as attorney's fees."

The Facts

The following undisputed facts may be gleaned from the pleadings of the parties.

The land in question was Lot No. 898 of the Romblon Cadastre with a total area of 10,891 square meters. It was originally leased from Sancho Magdato by Cebu Portland Cement Corporation (CEPOC), a government-owned and controlled corporation.

In 1961, CEPOC sold its buildings, equipment, machinery and other structures to Filipinas Marble Corporation (FILMARCO), which continued paying rentals to Magdato. FILMARCO, in turn, subleased the premises to Imperial Marble & Exploration Corporation (IMEC).

Subsequently, FILMARCO obtained a loan in the amount of US\$5 million from the Development Bank of the Philippines (DBP). As a security, it executed a chattel mortgage over its properties on the land. In 1987, DBP transferred to the Asset Privatization Trust (APT) its financial claim against FILMARCO. In 1990, APT placed a caretaker in the area to oversee the safekeeping of the mortgaged properties.

When FILMARCO failed to pay rentals, the heirs of Sancho Magdato filed before the RTC Civil Case No. V-1040 for quieting of title, recovery of possession and ownership of the land, and damages against FILMARCO and IMEC.

For failure to file an answer to the Complaint, both FILMARCO and IMEC were declared in default. Respondents were then allowed to present evidence ex parte. Thereafter, the trial court rendered its assailed Decision, which became final and executory when neither FILMARCO nor IMEC appealed.

APT allegedly learned of the suit only on December 20, 1994 when the Writ of Execution was served on its caretakers at the leased premises. The caretakers refused to vacate the premises.

Respondent narrated the subsequent events in this wise: "A series of motions and manifestations were filed by respondents and APT. Respondents moved to have the APT-appointed caretakers cited in contempt; this was denied by the trial court. On the other hand, APT asked for quashal of the Writ on ground that it was not a party to the case and could, thus, not be forced to comply with the Writ of Execution; furthermore, APT asked also for the pull-out and removal of respondents from the property. The first prayer of APT was not granted by the trial court even as it confirmed that APT was not party to the case; the latter prayer of APT was denied by the trial court. A motion for reconsideration by APT of the denial of the latter relief proved fruitless as the trial court remained steadfast in its decision to confirm respondents as the owners of the property."

On December 21, 1998, APT filed before the Court of Appeals a Petition for the annulment of the RTC Decision. As earlier stated, the CA resolved to dismiss the Petition.

Hence, this recourse to this Court.[6]

The Issues

In its Memorandum, petitioner submits the following issues for our consideration:[7]

I

"Whether or not sufficient ground exists for the annulment of the trial court's decision dated January 31, 1994 due to extrinsic fraud.

II

"Whether or not APT is an indispensable party and should have been impleaded in Civil Case No. V-1040.

III

"Whether or not the decision dated January 31, 1994 of the trial court may be enforced against APT despite the fact that APT [was] not a party in Civil Case No. V-1040.

IV

"Whether or not APT was denied due process in the proceeding before the trial court held in Civil Case No. V-1040.

V

"Whether or not private respondents heirs of Sancho Magdato were able to prove their ownership over Lot 898, CAD 311-D, C-1 of the Romblon Cadastre."

In the main, petitioner asks the Court to resolve two issues: (a) whether the RTC Decision should be annulled due to extrinsic fraud, and (b) whether the respondents were able to prove ownership of the parcel of land.

The Court's Ruling

The Petition is not meritorious.

First Issue:

Extrinsic Fraud

Section 2, Rule 47 of the 1997 Rules of Court, provides that the annulment of a judgment may "be based only on the grounds of extrinsic fraud and lack of jurisdiction." [8] There is extrinsic fraud when "the unsuccessful party had been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, x x x or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; x x x." [9]

In this case, petitioner contends that there was extrinsic fraud because respondents did not implead it as a defendant in the civil action, "[d]espite their knowledge that the building and equipment of FILMARCO standing on the subject property were mortgaged to DBP/APT." [10]

We disagree. A close examination of the records and the arguments presented shows that there was no reason for respondents to implead petitioner before the trial court.

Petitioner Not an

Indispensable Party

Petitioner contends that it should have been impleaded as an indispensable party, [11] because it was the "transferee of [DBP's] FILMARCO account which includes the leasehold rights and mortgage over the subject properties." [12]

The precise nature of the interest of APT was explained more clearly in its other pronouncements. Hence, in its Comment [13] to the Motion to declare its caretakers in contempt of court, it averred that what had been transferred to it by the DBP was the latter's "financial claim" against FILMARCO.

This assertion was reiterated in the February 16, 1999 letter [14] addressed to a Malacanang official, [15] 15 in which Renato B. Valdecantos, APT chief executive trustee, affirmed that what had been transferred by DBP to

APT was the bank's "financial claim" against FILMARCO. Pertinent portions of the letter are reproduced hereunder:

"On February 3, 1987, Administrative Order No. 14 was issued (Approving the Identification of and Transfer to the National Government of Certain Assets and Liabilities of the Development Bank of the Philippines and the Philippine National Bank) as implemented by the Deed of Transfer dated February 27, 1987, executed by and between DBP and the Government of the Republic of the Philippines, whereby DBP's rights, title and interest over the financial claim against Filipinas Marble Corporation (FILMARCO) were transferred to the National Government.

"On February 27, 1987, the Trust Agreement was executed by and between the National Government and the APT under which the former constituted the latter as its trustee over the Trust Properties defined therein, among which [was] the above-mentioned financial claim against FILMARCO.

"Thus, what was transferred by DBP to the National Government through the APT, consisted merely of the financial claim against FILMARCO. APT, even up to the present, remains to be a mere director, or, in other words, the holder of a financial claim against FILMARCO." [16] (Emphasis found in the original.)

More significant, Valdecantos also averred that APT was, in effect, a mere creditor of FILMARCO and was not the owner or possessor of the said mortgaged property. In his words:

"Since the National Government/APT is not the owner of the subject properties, it was explained to Mr. Ferriol that APT could not immediately exercise the rights of an owner, or more particularly, allow the unilateral "turn-over" of the properties which he wants the APT to do, which rights are vested only [in] the owners of property under Article 428 of the New Civil Code of the Philippines." [17]

Furthermore, he rejected the claim of Nelson Ferriol, respondents' representative, that the equipment had been "transferred to APT.

"The allegation of Mr. Ferriol, to wit:

'x x x that Filipinas Marble Corporation[s] properties ha[d] been transferred [to] the APT and the latter assumed full control including liabilities. Total unpaid rentals of FILMARCO to the Heirs of Sancho Magdato is approximately P4,243,443.16 as against FILMARCO's property valued at P277,550.00 only. APT refused to pay us the amount due to the Heirs of Sancho Magdato for dubious reasons.'

is without basis. APT should not and can not be held liable to settle other separate liabilities of FILMARCO." [18] (Emphasis supplied.)

From the foregoing, it is quite clear that APT does not claim to be either the owner or the possessor of the land or of the FILMARCO equipment thereon. APT was merely the creditor of FILMARCO.

Because APT has no interest in the parcel of land, it does not stand to be benefitted or injured by the suit before the trial court, which, as earlier noted, sought the recovery of possession and ownership only of the land, not of the mortgaged property located thereon.

The concern of APT was to collect the loan, which had been acquired by FILMARCO from DBP and secured by a mortgage over FILMARCO's equipment. That interest has not been affected by the action seeking the recovery of the land on which the property is located. Verily, the ownership and the possession of the land are immaterial to APT's claim against the equipment.

That the action for recovery of possession necessarily includes the removal of equipment located thereon does not make APT an indispensable party. As noted earlier, FILMARCO, not APT or DBP, was the owner of the said

equipment. Hence, respondents acted correctly in impleading FILMARCO, not APT or DBP. Certainly, if the claim of APT is adversely affected by the removal or transfer of the property to another place, it should proceed against FILMARCO, not against respondents. Such transfer or removal is the concern of FILMARCO, not the respondents. In any event, it should be underscored that the civil action seeks the recovery of the land, not of the equipment thereon.

In sum, the Court finds that petitioner failed to show substantial interest in the civil action which would render it an indispensable party. Accordingly, there was no reason for respondents to implead it as defendant before the trial court. Hence, its non-joinder does not constitute an extrinsic fraud.

Second Issue:

Ownership of the Land

Petitioner also contends that respondents failed to prove the disputed parcel of land. It avers that the appellate court failed to consider the alleged defects in the respondents' testimonial and documentary evidence.

This argument is bereft of merit. Petitioner is here seeking the annulment of a trial court judgment. Such recourse is based only on extrinsic fraud and lack of jurisdiction.^[19] Because it is not an appeal, the correctness of the judgment is not in issue here. Accordingly, there is no need to address each error allegedly committed by the trial court.

WHEREFORE, the Petition is DENIED and the assailed Resolutions AFFIRMED.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Written by Justice Teodoro P. Regino, with the concurrence of Justices Cancio C. Garcia (Division chairman) and Conrado M. Vasquez Jr. (member).

[2] Rollo, p. 33.

[3]Rollo, p. 34.

[4] Written by Judge Placido C. Marquez.

[5] RTC Decision, p. 26; rollo, p. 150.

[6] The case was deemed submitted for resolution on December 8, 1999, upon receipt by this Court of the petitioners Memorandum signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Fernanda Lampas Peralta and solicitor Norma B. Cajulis. Filed earlier on November 17, 1999, was respondents Memorandum, signed by Atty. Theodore O. Te of Sanidad Abaya Te Viterbo Enriquez & Tan.

[7] Petitioners Memorandum, pp. 9-10; rollo, pp. 276-277.

[8] Alarcon v. CA, GR No. 126802, January 28, 2000; Spouses Isagani Miranda and Miguela Joguilon v. CA, GR No. 114243, February 23, 2000. Cf. Macabingkil v. Peoples Homesite and housing Corporation, 72 SCRA 326, August 17, 1976, in which the Court has recognized that a patently void decision may also be set aside, where mere inspection demonstrates its nullity for want of jurisdiction or noncompliance with due process requirements.

[9] Strait Times v. CA, 294 SCRA 714, 722, August 28, 1998, per Panganiban, J.; citing Palanca v. The American Food Manufacturing Co., 24 SCRA 819, August 30, 1968. See also Serna v. CA, 308 SCRA 527, June 18, 1999;

Arcelona v. CA, 280 SCRA 20, October 2, 1997.

[10] Petitioners Memorandum, p. 11; rollo, p. 278.

[11] An indispensable party is one without whom no final determination can be had of an action. Section 9, Rule 3 of the Rules of Court. See also Nufable v. Nufable, 309 SCRA 692, July 2, 1999; Uy v. CA, GR No. 120465, September 9, 1999; Zarate v. RTC of Kalibo, Aklan, GR No. 102305, October 13, 1999.

[12] Petitioners Memorandum, p. 12; rollo, p. 279.

[13] Annex K to the Petition, p. 1; rollo, p. 162.

[14] Annex 1 to the respondents comment; rollo, pp. 242-245.

[15] Atty. Gaudencio Mendoza Jr., assistant executive secretary for legal affairs, Office of the Secretary, Malacanang.

[16] Rollo, pp. 242-243.

[17] Ibid., p. 243-244.

[18] Ibid., p. 243.

[19] Section 2, Rule 47 of the 1997 Rules of Court.

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