

TESTATE ESTATE OF MARIA MANUEL VDA. DE BIASCAN, PETITIONER, VS. ROSALINA C. BIASCAN, RESPONDENT.

G.R. No. 138731. December 11, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is a petition for review of the decision[1] of the Court of Appeals in CA-G.R. SP Case No. 44306 affirming the orders dated October 22, 1996 and February 12, 1997 of the Regional Trial Court, Branch 4, Manila. These orders dismissed the appeal of petitioner from the orders dated April 2, 1981 and April 30, 1985 of the same Regional Trial Court.

The facts of the case are as follows:

On June 3, 1975, private respondent Rosalina J. Biascan filed a petition[2] denominated as Special Proceeding No. 98037 at the then Court of First Instance, Branch 4, Manila praying for her appointment as administratrix of the intestate estate of Florencio Biascan and Timotea Zulueta. In an Order dated August 13, 1975, private respondent was appointed as regular administratrix of the estates.

On October 10, 1975, Maria Manuel Vda. De Biascan, the legal wife of Florencio Biascan entered her appearance as Oppositor-Movant in SP. Proc. No. 98037.[3] Simultaneous with her appearance, she filed a pleading containing several motions including a motion for intervention, a motion for the setting aside of private respondent's appointment as special administratrix and administratrix, and a motion for her appointment as administratrix of the estate of Florencio Biascan.[4]

After an exchange of pleadings between the parties, Judge Serafin Cuevas, then presiding judge of CFI Manila, Branch 4, issued an Omnibus Order[5] dated November 13, 1975 which, among others, granted Maria's intervention and set for trial the motion to set aside the Orders appointing respondent as administratrix.

On April 2, 1981, the trial court issued an Order[6] resolving that: (1) Maria is the lawful wife of Florencio; (2) respondent and her brother are the acknowledged natural children of Florencio; (3) all three are the legal heirs of Florencio who are entitled to participate in the settlement proceedings; (4) the motion to set aside the order appointing private respondent as administratrix is denied; and (5) the motion to approve inventory and appraisal of private respondent be deferred. Maria, through her counsel, received a copy of this April 2, 1981 Order on April 9, 1981.[7]

On June 6, 1981, or fifty-eight (58) days after he receipt of the April 2, 1981 Order, Maria filed her motion for reconsideration[8] which private respondent opposed.[9]

On November 15, 1981, the fourth floor of the City Hall of Manila was completely gutted by fire. The records of the settlement proceedings were among those lost in the fire. Thus, on January 2, 1985, private respondent filed a Petition for Reconstitution[10] of the said records.

Due to the delay caused by the fire and the reconstitution of the records, it was only on April 30, 1985 that the Regional Trial Court of Manila, Branch 4 issued an Order[11] denying Maria's June 6, 1981 Motion for Reconsideration.

Sometime thereafter, Maria died and her testate estate also became the subject of settlement proceedings. Atty. Marcial F. Lopez was appointed as interim special administrator and engaged the services of the Siguion Reyna Montecillo and Ongsiako Law Offices on Behalf of the estate.

On August 21, 1996, the law firm was allegedly made aware of and given notice of the April 30, 1985 Order when its associate visited Branch 4 of the Regional Trial Court of Manila to inquire about the status of the case. The associate checked the records if there was proof of service of the April 30, 1985 Order to the former counsel of Maria, Atty. Marcial F. Lopez, but he discovered that there was none.[12] He was able to secure a certification[13] from the Clerk of Court of the Regional Trial Court of Manila, Branch 4 which stated that there was no proof of service of the Order dated April 30, 1985 contained in the records of SP. Proc. No. 98037.

A Notice of Appeal[14] dated April 22, 1996 was filed by petitioner from the Orders dated April 2, 1981 and April 30, 1985 of the trial court. While the said notice of appeal was dated April 22, 1996, the stamp of the trial court on the first page of the notice clearly indicated that the same was received by the trial court on September 20, 1996. A Record of Appeal[15] dated September 20, 1996 was likewise filed by petitioner.

On October 22, 1996, the trial court issued an Order[16] denying petitioner's appeal on the ground that the appeal was filed out of time. The trial court ruled that the April 2, 1981 Order which was the subject of the appeal already became final as the Motion for Reconsideration thereof was filed sixty-five (65) days after petitioner received the same. In addition, the court ruled that the notice of appeal itself was filed manifestly late as the same was filed more than 11 years after the issuance of the June 11, 1985 Order denying petitioner's Motion for Reconsideration. The Motion for Reconsideration dated November 13, 1996 of petitioner was likewise denied by the trial court in an Order[17] dated February 12, 1997.

Not satisfied with this decision, petitioner filed a Petition for Certiorari with Prayer for Mandatory Injunction[18] with the Court of Appeals questioning the October 12, 1996 and February 12, 1997 Orders of the Regional Trial Court.

In a Decision[19] dated February 16, 1999, the First Division of the Court of Appeals denied the petition for certiorari of petitioner. Petitioner's Motion for Reconsideration was likewise denied by the appellate court in a Resolution[20] dated May 18, 1999.

Hence, this Petition for Review on Certiorari where petitioner sets forth the following ground for the reversal of the decision of the appellate court:

"THE FIRST DIVISION OF THE COURT OF APPEALS (REVIEWING COURT) HAS SANCTIONED THE DEPARTURE BY THE REGIONAL TRIAL COURT OF MANILA BRANCH 4 (TRIAL COURT) FROM THE USUAL COURSE OF JUDICIAL PROCEEDING IN ISSUING THE ASSAILED 16 FEBRUARY 1999 DECISION AND THE 18 MAY 1999 RESOLUTION WHEN IT AFFIRMED THE ERRONEOUS FINDING OF THE TRIAL COURT THAT THE ORDER DATED APRIL 2, 1981 BECAME FINAL AND EXECUTORY DESPITE THE FACT THAT NO OPPOSITION ON ITS TIMELINESS WAS FILED AND MOREOVER NO RULING AS REGARDS ITS TIMELINESS WAS MADE." [21]

There is no merit in the petition.

Section 1, Rule 109 of the Rules of Court enumerates the orders and judgments in special proceedings which may be the subject of an appeal. Thus:

"Section 1. Orders or judgments from which appeals may be taken. - An interested person may appeal in a special proceeding from an order or judgment rendered by a Regional Trial Court or a Juvenile and domestic Relations Court, where such order or judgment:

- (a) Allows or disallows a will;
- (b) Determines who are the lawful heirs of a deceased person, or the distributive shares of the estate to which such person is entitled;
- (c) Allows, or disallows, in whole or in part, any claim against the estate of a deceased person, or any claim presented on behalf of the estate in offset to a claim against it;
- (d) Settles the account of an executor, administrator, trustee or guardian;
- (e) Constitutes, in proceedings relating to the settlement of the estate of a deceased person, or the administration of a trustee or guardian, a final determination in the lower court of the rights of the party appealing, except that no appeal shall be allowed from the appointment of a special administrator; and
- (f) Is the final order or judgment rendered in the case, and affects the substantial rights of the person appealing, unless it be an order granting or denying a motion for new trial or for reconsideration."

An appeal is allowed in these aforesaid cases as these orders, decrees or judgments issued by a court in a special proceeding constitute a final determination of the rights of the parties so appealing.[22] In contrast, interlocutory orders are not appealable as these are merely incidental to judicial proceedings. In these cases, the court issuing such orders retains control over the same and may thus modify, rescind, or revoke the same on sufficient grounds at any time before the final judgment.[23]

In the instant case, the Order dated April 2, 1981 of the trial court decreed, among others, that Maria Manuel Vda. De Biascan, the lawful wife of the deceased Florencio Biascan, private respondent Rosalina Biascan and her brother, German Biascan, are entitled to participate in the settlement proceedings. Moreover, the said Order likewise denied Maria's motion to set aside the order appointing private respondent as regular administratrix of the estate. These rulings of the trial court were precisely questioned by Maria in her Motion for Reconsideration dated June 6, 1981.

The ruling of the trial court that Maria, private respondent Rosalina Biascan and German Biascan were entitled to participate in the settlement proceedings falls squarely under paragraph (b), Section 1, Rule 109 of the Rules of Court as a proper subject of appeal. By so ruling, the trial court has effectively determined that the three persons are the lawful heirs of the deceased. As such, the same may be the proper subject of an appeal.

Similarly, the ruling of the trial court denying petitioner's motion to set aside the order appointing private respondent as the regular administratrix of the estate of Florencio Bisacan is likewise a proper subject of an appeal. We have previously held that an order of the trial court appointing a regular administrator of a deceased person's estate is a final determination of the rights of the parties thereunder, and is thus, appealable.[24] This is in contrast with an order appointing a special administrator who is appointed only for a limited time and for a specific purpose. Because of the temporary character and special character of this appointment, the Rules deem it not advisable for any party to appeal from said temporary appointment.[25] Considering however that private respondent has already been appointed as regular administratrix of the estate of Florencio Biascan, her appointment as such may be questioned before the appellate court by way of appeal.

It is thus clear that the Order dated April 2, 1981 may be the proper subject of an appeal in a special proceeding. In special proceedings, such as the instant proceeding for settlement of estate, the period of appeal from any decision or final order rendered therein is thirty (30) days, a notice of appeal and a record on appeal being required.[26] The appeal period may only be interrupted by the filing of a motion for new trial or reconsideration. Once the appeal period expires without an appeal or a motion for reconsideration or new trial being perfected, the decision or order becomes final.

With respect to the Order dated April 2, 1981 issued by the trial court, petitioner admits that Maria Manuel Vda. De Biascan, its predecessor-in-interest, received a copy of the same of April 9, 1981. Applying these rules, Maria or her counsel had thirty (30) days or until May 9 within which to file a notice of appeal with record on appeal. She may also file a motion for reconsideration, in which case the appeal period is deemed interrupted.

Considering that it was only June 6, 1981, or a full fifty-eight (58) days after receipt of the order, that a motion for reconsideration was filed, it is clear that the same was filed out of time. As such, when the said motion for reconsideration was filed, there was no more appeal period to interrupt as the Order had already become final.

Petitioner insists, however, that the order dated April 2, 1981 of the trial court did not become final and executory as no opposition on its timeliness was filed and no ruling as regards its timeliness was made. Petitioner argues that although its motion for reconsideration was denied in the Order dated April 30, 1985, the denial was made on grounds other than its failure to ask for a reconsideration within the period prescribed by law. As such, petitioner concludes, any procedural defect attending the Motion for Reconsideration was deemed cured when the trial court, in its Order dated April 30, 1985, took cognizance of the same and rendered its ruling thereon.

There is no merit in this argument.

It is well-settled that judgment or orders become final and executory by operation of law and not by judicial declaration. Thus, finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected^[27] or motion for reconsideration or new trial is filed. The trial court need not even pronounce the finality of the order as the same becomes final by operation of law. In fact, the trial court could not even validly entertain a motion for reconsideration filed after the lapse of the period for taking an appeal.^[28] As such, it is of no moment that the opposing party failed to object to the timeliness of the motion for reconsideration or that the court denied the same on grounds other than timeliness considering that at the time the motion was filed, the Order dated April 2, 1981 had already become final and executory. Being final and executory, the trial court can no longer alter, modify, or reverse the questioned order.^[29] The subsequent filing of the motion for reconsideration cannot disturb the finality of the judgment or order.^[30]

Even if we assume that the Motion for Reconsideration filed by petitioner had the effect of suspending the running of the appeal period for the April 2, 1981 Order, it is clear that petitioner's notice of appeal of the orders of the trial court was still filed out of time.

Under Section 3, Rule 41 of the Rules of Court then applicable, the time during which a motion to set aside the judgment or order or for a new trial shall be deducted from the period from which to make an appeal. The rule further states that where the motion was filed during office hours of the last day of the appeal period, the appeal must be perfected within the day following that in which the party appealing received notice of the denial of said motion.

The Order of the trial court denying petitioner's Motion for Reconsideration of the April 2, 1981 Order was issued on April 30, 1985. Allegedly, petitioner was only made aware of this April 30, 1985 Order on August 21, 1996 when it inquired from the trial court about the status of the case. Giving petitioner the benefit of the doubt that it had indeed received notice of the order denying its motion for reconsideration on August 21, 1996, it follows that petitioner only had until the following day or on August 22, 1996 within which to perfect the appeal.

At this point, we note with disapproval petitioner's attempt to pass off its Notice of Appeal as having been filed on August 22, 1996. In all its pleadings before this Court and the Court of Appeals, petitioner insists that its Notice of Appeal was filed the day after it secured the August 21, 1996 Certification from the trial court. While the Notice of Appeal was ostensibly dated August 22, 1996, it is clear from the stamp^[31] of the trial court that the

same was received only on September 20, 1996. Moreover, in the Order dated October 22, 1996 of the trial court denying petitioner's appeal, the court clearly stated that the Notice of Appeal with accompanying Record on Appeal was filed on September 20, 1996.

Considering that it is clear from the records that petitioner's notice of appeal was filed on September 20, 1996, the same was clearly filed out of time as it only had until August 22, 1996 within which to file the said pleading. And while the rules on special proceedings recognize that a motion for extension of time to file the notice of appeal and record of appeal may be granted,[32]

WHEREFORE, premises considered, we hereby DISMISS the petition for lack of merit. The decision dated February 16, 1999 and the Resolution dated May 18, 1999 of the Court of Appeals are hereby AFFIRMED.

SO ORDERED.

Melo, (Chairman), Vitug, and Panganiban, JJ., concur.

[1]Per Associate Justice Jesus M. Elbinias with the concurrence of Associate Justice Eugenio S. Labitoria and Associate Justice Marina L. Buzon.

[2]Annex "C", Petition; Rollo, pp. 33-35.

[3]Rollo, p. 3.

[4]Annex "E", Petition; Rollo, pp. 37-55.

[5]Annex "F", Petition; Rollo, pp. 56-57.

[6]Annex "G", Petition; Rollo, pp.58-64.

[7]Rollo, p. 11.

[8]Annex "H", Petition; Rollo, pp. 65-67.

[9]Annex "I", Petition; Rollo, pp. 68-70.

[10]Annex "J", Petition; Rollo, pp. 71-72.

[11]Annex "K", Petition; Rollo, p. 73.

[12]Rollo, pp. 12-13.

[13]Annex "L", Petition; Rollo, p. 74.

[14]Annex "M", Petition; Rollo, pp. 76-77.

[15]Annex "N", Petition; Rollo, pp. 78-80.

[16]Annex "O", Petition; Rollo, pp. 81-82.

[17]Annex "P", Petition; Rollo, p. 83.

[18]Annex "Q", Petition; Rollo, pp.84-101.

[19]Annex "A" of Petition; Rollo, pp. 23-27.

[20]Annex "B" of Petition; Rollo, pp. 29-31.

[21]Rollo, p. 14.

[22]Pan Realty Corporation vs. Court of Appeals, 167 SCRA 564.

[23]Lilian Uy Tengsu Liu vs. Court of Appeals, 164 SCRA 417.

[24]Torres and De Jesus vs. Sicat Vda. De Morales, 93 Phil 155; Si Hong Eng vs. Sy Lioc Suy, 8 Phil 594.

[25]De Borja, etc. vs. Tan, etc. and De Borja, 97 Phil 872.

[26]Section 19 (b), Interim Rules and Guidelines to Implement B.P. Blg. 129; Lacsamana vs. Second Special Cases Division of the Intermediate Appellate Court, 143 SCRA 643.

[27]Republic of the Phil. vs. Asociacion Benevola de Cebu, 178 SCRA 692; Munez vs. C.A., 152 SCRA 197.

[28]Destileria Limtuaco & Co., Inc. vs. Court of Appeals, 143 SCRA 91.

[29]Government Service Insurance Systems vs. Gines, 219 SCRA 724; Estoesta, Sr. vs. Court of Appeals, 179 SCRA 203; Agricultural and Industrial Marketing, Inc. vs. Court of Appeals, 118 SCRA 49.

[30]Pfleider vs. Victoriano, 98 SCRA 491.

[31]Rollo, p. 76.

[32]Lacsamana vs. Second Special Cases Division of the intermediate Appellate Court, supra.

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