

**BALTAZAR, RUDYGONDO AND ROMANA, ALL SURNAMED BARING,
AND HEIRS OF FRANCISCO BARING, NAMELY: GOMERSINDO
BARING, MARRIED TO ZOSIMA BARING, EUGENIO BARING MARRIED
TO MELLY BARING, ...**

G.R. NO. 141746. December 15, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This refers to the petition for review on certiorari under Rule 45 of the Rules of Court assailing the Amendatory Decision[1] dated September 30, 1998 of the Court of Appeals (CA) in CA-G.R. CV No. 43555, the dispositive portion of which reads:

WHEREFORE, the decision in this case is RECONSIDERED and another is hereby entered DISMISSING the complaint. No costs.

SO ORDERED.[2]

The complaint dismissed by the CA is one for Annulment of Extrajudicial Settlement and Sale and Recovery of Shares filed before the Regional Trial Court of Lapu-Lapu City, Branch 27 by the heirs of the deceased brothers Eugenio and Julian Baring against private respondents, docketed as Civil Case No. 0184-L. In their complaint, the heirs of Eugenio and Julian Baring alleged that: Pedro Baring, who died in 1942, owned Lot No. 5011 measuring 117,058 square meters covered by OCT No. RO-2683; on December 2, 1966, some of Pedro's heirs, namely, Monico, Sabino, Felipe, Simplicio,[3] Francisco and Baltazar, all surnamed Baring, executed an Extrajudicial Settlement and Sale, adjudicating unto themselves 81,685 square meters of Lot No. 5011 to the exclusion of Eugenio and Julian Baring, who are also heirs of Pedro Baring; said portion was sold to Alfredo, Vicente, and Miguel, all surnamed Mancao, and Rafael Sandiego by virtue of the same instrument. The heirs of Eugenio and Julian Baring prayed that the Extrajudicial Settlement and Sale be declared null and void, and that the shares pertaining to Eugenio and Julian be reconveyed to their heirs.[4]

In their Answer, private respondents Monico Baring and some of the heirs of Sabino, Felipe and Simplicio Baring, denied that said portion of Lot No. 5011 was subdivided and sold without the knowledge of Eugenio and Julian Baring. Private respondents contended that Eugenio and Julian already sold their share over the property to their brothers Sabino and Felipe Baring, hence, the Extrajudicial Settlement and Sale was valid; and that the action is barred by prescription, estoppel or laches.[5]

On the other hand, private respondents Vicente and Miguel Mancao, and Rafael Sandiego, claimed in their Answer that: some of the plaintiffs do not appear to be the heirs of the late Eugenio Baring, while the others, particularly Leon, Garita and Claudio, are not real parties-in-interest as they have already sold their rights over the property to a certain Crestina Medel by virtue of a Deed of Sale of Rights, Interest over Lot No. 5011 OPON CAD dated November 20, 1985. They also alleged that: Monico Baring sold 5,216 square meters of his share to

Felisa Baring per Deed of Sale dated January 3, 1961; Felipe Baring sold 6,500 square meters of his share to Pedro Tampus per Deed of Sale dated January 18, 1961; Sabino Baring sold 9,762 square meters of his share to Pedro Tampus per Deed of Sale dated February 17, 1961; Monico, Felipe, Simplicio, Francisco, Sabino, Baltazar and Felisa, all surnamed Baring, and Pedro Tampus executed an affidavit declaring among others, that after the death of Pedro Baring on January 16, 1942, Lot No. 5011 was divided into shares, and that the shares of Eugenio and Julian Baring were sold to Sabino and Felipe Baring; Eustaquia Baring Remulta sold all her shares consisting of 6,250 square meters to Alfredo Mancao per Deed of Sale dated December 26, 1967; Eusaria and Asuncion Baring sold their respective shares over the property consisting of 6,213 square meters to Alfredo Mancao per Deed of Sale dated March 29, 1968; Pedro Tampus sold the portion he previously bought from Felipe and Sabino

Baring to Vicente and Miguel Mancao per Deed of Sale dated December 31, 1975; immediately after the sale of the foregoing shares over Lot No. 5011, private respondents Vicente and Miguel Mancao, and Rafael Sandiego, and the late Alfredo Mancao, entered into possession of the property covered by the shares sold; the action is barred by prescription, laches or estoppel.[6]

Francisco and Baltazar Baring filed their Answer admitting that they signed the Extrajudicial Settlement and Sale through the inducement of the Mancaos and Sandiego on the condition that Eugenio and Julian Baring will also be made signatories to the deed.[7]

After trial on the merits, the trial court rendered a decision annulling the Extrajudicial Settlement and Sale insofar as the shares of Eugenio and Julian Baring are concerned.

On appeal, the CA, at first, affirmed the decision of the trial court in its Decision dated March 28, 1996. However, on private respondents' motion for reconsideration, the CA reconsidered its previous decision and rendered herein assailed Amendatory Decision dated September 30, 1998, dismissing the complaint. In dismissing the complaint, the appellate court noted that Exhibit "7," an Affidavit dated July 31, 1964, executed by Felisa, Sabino, Monico, Baltazar, Simplicio, Francisco and Felipe, all surnamed Baring, and Pedro Tampus, in support of their request for a consolidated tax return, is an admission against interest, and establishes the good faith of private respondents Mancaos and Sandiego in buying the property. The CA also found that laches and estoppel have already set in.[8]

The heirs of Julian and Eugenio Baring filed a motion for reconsideration of the CA's Amendatory Decision but this was denied per CA Resolution dated January 15, 1999,[9] compelling them to file a petition for review on certiorari with this Court, docketed as G.R. No. 137243.[10] On April 13, 1999, this Court denied the petition for certiorari for having been filed out of time and for lack of affidavit of service.[11] Said denial became final and executory on August 17, 1999, and was recorded in the Book of Entries of Judgment.[12]

Meanwhile, Rudygondo and Romana Baring (two of Simplicio Baring's heirs), Baltazar Baring, and the heirs of Francisco Baring also filed a motion for reconsideration of the CA's Amendatory Decision, alleging that:

- WITH ALL DUE RESPECT, THE DEFENDANTS-APPELLANTS WERE DENIED DUE PROCESS WHEN THEY WERE [NOT] FURNISHED COPIES OF BOTH DECISIONS;
- WITH ALL DUE RESPECT, THE COURT A QUO NEVER ACQUIRED JURISDICTION OVER THE DEFENDANTS-APPELLANTS NAMELY RUDYGONDO AND ROMANA BARING;
- WITH ALL DUE RESPECT, THE DEFENDANTS-APPELLANTS WERE NEVER FURNISHED COPIES OF THE DECISION OF THE COURT A QUO DATED DECEMBER 8, 1991.[13]

It was their contention that the trial court did not acquire any jurisdiction over them because Rudygondo and Romana Baring were not served with summons, while Francisco, Baltazar, Rudygondo and Romana Baring were not furnished with the trial court's decision. They also argued that such failure denied them due process as they

were deprived of their right to present evidence before the trial court. They sought the remand of the case to the trial court for further proceedings and reception of evidence.[14]

The CA denied their motion for reconsideration per CA Resolution dated January 5, 2000, on the ground that the motion did not state the material dates showing that it was filed on time.[15]

Hence, the present petition with the following arguments:

THE DECISION OF THE HONORABLE COURT OF APPEALS, DATED 30 SEPTEMBER 1998 AND 5 JANUARY 2000 (ANNEX A AND D), DENYING THE MOTION FOR RECONSIDERATION FILED BY PETITIONERS TO REMAND THE CASE TO THE COURT A QUO TO ALLOW PETITIONERS TO ADDUCE EVIDENCE WAS RENDERED WITH GRAVE ABUSE OF DISCRETION IN SO FAR AS IT DENIED THE MOTION FOR RECONSIDERATION AND PLEA FOR DUE PROCESS IN A WAY NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT CONSIDERING THAT:

I.

THE DENIAL OF THE MOTION FOR RECONSIDERATION DUE TO ALLEGED FAILURE TO STATE THE DATE OR RECEIPT OF THE QUESTIONED DECISION DEPRIVED PETITIONERS OF SUBSTANTIAL JUSTICE AS THEY HAVE IN FACT SUBSTANTIALLY COMPLIED WITH THE RULES BY STATING THE DATE WHEN THEY RECEIVED A COPY OF THE QUESTIONED AMENDATORY DECISION IN THE SUPPLEMENTAL MOTION FOR RECONSIDERATION.

II.

PETITIONERS WERE DENIED OF DUE PROCESS AS THEY WERE NOT GIVEN THEIR DAY IN COURT IN THE PROCEEDINGS CONDUCTED BEFORE THE HONORABLE COURT OF APPEALS AND THE TRIAL COURT.[16]

On June 4, 2001, the Court required the parties to submit their respective Memoranda.[17] Private respondents Mancao, et al., filed their Memorandum on August 28, 2001,[18] while petitioners filed theirs on November 14, 2001.[19] With regard to private respondents-heirs of Pedro Baring and Dalmacia Remulta however, it appears that their counsel, Atty. Jose C. Batiquin, died on June 10, 2002, and thus they were required to submit to the Court the name and address of their new counsel per Resolution dated January 29, 2003.[20] Said order was reiterated in a Resolution dated August 13, 2003, which was later returned to the Court, unserved,[21] in view of which petitioners were required to submit the correct and present addresses of private respondents-heirs of Pedro Baring and Dalmacia Remulta.[22]

Thereafter, in a Resolution dated August 4, 2004, the Court directed Atty. Evener J. Villasanta to submit the required Memorandum for the heirs. Atty. Villasanta, however, informed the Court that as early as October 16, 2000, he had already withdrawn as counsel for private respondents.[23] Consequently, private respondents were again required to submit the name and address of their new counsel, failing which, the case will be deemed submitted for resolution. Finally, private respondents filed their Memorandum on September 1, 2005.[24]

Without delving into the merits of herein petition, the Court finds that the petition should be denied.

In the first place, the Court cannot comprehend petitioners' purpose for filing this petition for review. Being defendants in Civil Case No. 0184-L, the dismissal of the complaint filed in said case pursuant to the CA's Amendatory Decision dated September 30, 1998 clearly benefited their cause as they are now relieved from having to defend themselves. Yet, they filed the present case, asking that the case be remanded to the trial court so that they may be allowed to present evidence in their behalf. The Court can only surmise as to petitioners' true

intent.

More importantly, the opinion of the Court on the merits of this case will serve no useful purpose. The issue of service of summons on petitioners Rudygondo and Romana Baring, as well as the service of the CA's Amendatory Decision on Francisco and Baltazar Baring, is already of no significance considering that, as previously noted, the CA Amendatory Decision dismissed the case for Annulment of Extrajudicial Settlement and Sale and Recovery of Shares which had become final and executory. Consequently, whatever disquisition the Court will make on such issues will merely be an exercise in futility.

In *Desaville vs. Court of Appeals*, the Court stated:

Courts of justice constituted to pass upon substantial rights will not consider questions where no actual interests are involved. Thus, the well-settled rule that courts will not determine a moot question. Where the issues have become moot and academic, there ceases to be any justiciable controversy, thus rendering the resolution of the same of no practical value. Courts will decline jurisdiction over moot cases because there is no substantial relief to which petitioner will be entitled and which will anyway be negated by the dismissal of the petition. This Court will therefore abstain from expressing its opinion in a case where no legal relief is needed or called for. [25]

WHEREFORE, the petition for review on certiorari is DENIED.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ.concur.

[1] Penned by Associate Justice Emeterio C. Cui (retired), with Associate Justices Ramon U. Mabutas, Jr. (retired) and Romeo A. Brawner (retired), concurring.

[2] CA rollo, p. 249.

[3] Predecessor-in-interest of petitioners Rudygondo and Romana Baring.

[4] Records, pp. 4-7.

[5] Id., p. 19.

[6] Id., pp. 25-29.

[7] Id., pp. 63-65.

[8] CA rollo, pp. 132-134.

[9] Id., pp. 289-290.

[10] Id., pp. 331-346.

[11] Id., p. 393.

[12] Id., p. 397.

[13] Id., pp. 310-311.

[14] Id., pp. 310-321.

[15] Id., p. 423.

[16] Rollo, pp. 26-27.

[17] Id., pp. 182-183.

[18] Id., pp. 184-191.

[19] Id., pp. 204-217.

[20] Id., p. 241.

[21] Id., p. 249.

[22] Ibid.

[23] Id., p. 172.

[24] Temporary rollo.

[25] G.R. No. 128310, August 13, 2004, 436 SCRA 387, 391-392.

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