HEIRS OF WENCESLAO SAMPER AND HERMOGENA RECIPROCO-SAMPER, REPRESENTED BY GAUDENCIO R. SAMPER, PURIFICACION R. SAMPER AND ROSARIO R. SAMPER, PETITIONERS, VS. DULCE RECIPROCO-NOBL...

G.R. NO. 142594. June 26, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review, the Court is being asked to set aside the 30 June 1999 Decision[1] and 7 March 2000 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 43239 where the CA dismissed the petitioners' original petition for the annulment of the summary judgment rendered by the Regional Trial Court (RTC) of Iriga City, Branch 35, in its Civil Case No. IR-2403, an action for recovery of possession and damages thereat filed by the herein respondents against the petitioners' mother, Hermogena Reciproco-Samper.

The facts:

The suit is a dispute among relatives, in fact first cousins. Petitioners are the children of the spouses Wenceslao Samper and Hermogena Reciproco-Samper. On the other hand, respondents are the children of Hermogena's brother, Angel M. Reciproco. Hermogena and Angel were children of Narciso Reciproco, grandfather of both petitioners and respondents. Subject of the dispute is a 146-square meter residential land located in San Roque, Bahi, Camarines Sur.

Sometime in 1958, the spouses Wenceslao Samper and Hermogena Reciproco-Samper (Hermogena) allegedly acquired and thereafter took actual possession of the subject property from her father, Narciso Reciproco.

In February 1974, Hermogena's brother, Angel M. Reciproco (Angel), filed a verified application[3] for Free Patent with the Bureau of Lands. By virtue of said application, Original Certificate of Title (OCT) No. 29014 covering the subject property was issued in his name.

On 19 December 1991, in the RTC of Iriga City, Angel's children, herein respondents Dulce Reciproco-Noble, Rogelio Reciproco and Vicky Reciproco-Adresola (Heirs of Angel), filed a complaint for recovery of possession and damages against their aunt Hermogena involving the subject property. In their complaint, docketed in the same court as Civil Case No. IR-2403, the heirs of Angel, as plaintiffs, substantially alleged that upon the mere permission and tolerance of their father, Hermogena was allowed to occupy the subject property for free with the understanding that she would vacate and surrender its possession if and when her brother Angel or the latter's successors-in-interest already needed it; and that despite demand to vacate the property because they, as children of Angel, already needed it, Hermogena failed and refused to comply.

On 20 February 1992, Hermogena, as defendant in the case, filed her answer, claiming that she was the owner of the subject property by virtue of an "scritura de Compra-Venta"[4] allegedly executed on 20 February 1958 in her and her husband's favor by her father, Narciso Reciproco, who previously bought it from one Catalino Labro

sometime in 1923. The answer further alleged that therein plaintiffs' father, Angel, obtained his title to said property through fraud, deceit and misrepresentation by stating in his Free Patent application that the land being applied for was not occupied by any other person but himself, when in truth and in fact, said land had continuously been under the actual possession of her father, Narciso, from 1923, and by her and her husband, from 1958, or for a total of almost seventy (70) years already until the time the complaint was filed. By way of counterclaim, Hermogena sought the cancellation and annulment of OCT No. 29014, plus damages.

On 10 July 1992, Hermogena filed a motion to dismiss the complaint on grounds of prematurity and lack of cause of action on account of the alleged failure of respondents, as plaintiffs, to comply with Section 6 of Presidential Decree No. 1508, otherwise known as the Katarungang Pambarangay Law. This motion was denied by the trial court on 21 August 1992. Hermogena filed a motion for reconsideration of the denial order, but her motion was likewise denied on 8 September 1992.

In the meantime, the respondents, as plaintiffs, filed their reply on 24 August 1992 and the case was set for pre-trial conference.

After the parties had filed their respective pre-trial briefs, the respondents, as plaintiffs, filed a Motion for Summary Judgment. The trial court ordered Hermogena, as defendant in the suit, to comment on the motion within ten (10) days from 14 December 1992. Despite receipt of said order, she did not file any.

Hence, on 15 March 1993, the trial court, finding the plaintiffs' (now respondents') motion for summary judgment impressed with merit, rendered the assailed Summary Judgment, [5] the fallo of which reads:

> WHEREFORE, finding the motion for summary judgment meritorious, the same is hereby granted and defendant is hereby ordered to vacate the land subject matter of this complaint and to surrender possession thereof to the plaintiffs.
>
> The counterclaim is hereby denied for lack of merit.
>
> Costs against the defendant.
>
> SO ORDERED.

Unsatisfied with the judgment, Hermogena filed with the trial court a Notice of Appeal, therein making known that she is taking an appeal therefrom to the CA. Acting thereon, the trial court ordered the elevation of the entire records of the case to the appellate court whereat Hermogena's appeal was docketed as CA-G.R. UDK CV No. 0028-A. Unfortunately, in a Resolution dated 15 February 1996, the appellate court dismissed said appeal for failure to pay the docket and other legal fees. Such dismissal became final and executory on 8 March 1996, per entry of judgment in the CA.

Such was the state of things when, on 3 February 1997, the spouses Hermogena Reciproco-Samper and Wenceslao Samper, this time represented by the herein petitioners who are all their children, filed with the CA against the Presiding Judge of RTC, Br. 153 and the herein respondents as children of Angel the subject petition for the annulment of the summary judgment rendered by the RTC of Iriga City in its Civil Case No. IR-2403. The petition, docketed in the CA as CA-G.R. SP No. 43239, alleged that Hermogena's counsel in Civil Case No. IR-2403, Atty. NiHofranco, committed professional delinquency or infidelity by conniving with the respondents (as plaintiffs in that case) to prevent an adversarial proceeding where she (Hermogena) can present her case fully and fairly, thereby causing her defeat. More specifically, it is claimed that Hermogena was the victim of extrinsic fraud consisting of the gross neglect of Atty. NiHofranco to: (a) file a comment or opposition to the motion for summary judgment, the result of which was that her side was not heard and summary judgment was thus rendered; and (b) pay the docket fees for the appeal, despite having received the said amount, as a result of which

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the CA dismissed the appeal from the trial court's summary judgment.

Unconvinced by the petitioners' arguments, the appellate court came out with its herein assailed Decision[6] of 30 June 1999, dismissing the petitioners' petition for annulment of summary judgment, thus:

> WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit. Let the records of Civil Case No. IR-2403 be remanded to the court a quo immediately upon the finality hereof.
>
> SO ORDERED.

Hence, this recourse by the petitioners urging us to set aside the aforementioned decision of the appellate court which in effect sustained the summary judgment rendered by the trial court in its Civil Case No. IR-2403.

In support of their plea, petitioners submit that:

> - The negligence of the former counsel of their mother Hermogena is so gross, reckless and inexcusable that as a result, Hermogena was denied her day in court;
>
> - The summary judgment rendered by the trial court cannot attain finality because it is unjust due to the court a quo's failure to conduct a hearing on the motion therefor; and
>
> - Hermogena's defenses as set forth in her answer tender triable issues, which are: (a) she is the true owner and occupant of the disputed property, having obtained title to the same by sale and having remained in possession thereof for more than seventy (70) years now; (b) the respondents' predecessor-in-interest (Angel) obtained his title (OCT 29014) over the disputed property through fraud, deceit, bad faith and misrepresentation.
>
> We DENY.

The summary judgment sought to be annulled in this case was rendered on 15 March 1993, which is before the 1997 Rules of Civil Procedure. The CA took cognizance of the subject petition for annulment by authority of Section 9, paragraph 2 of Batas Pambansa Blg. 129, which states that "[t]he Intermediate Appellate Court (now Court of Appeals) shall exercise: x x x (2) Exclusive original jurisdiction over actions for annulment of judgments of the Regional Trial Courts x x x." Under existing jurisprudence on the matter, "certain requisites must first be established before a final and executory judgment can be subject of an action for annulment. It must either be void for want of jurisdiction or for lack of due process of law, or it has been obtained by fraud."[7] These are the same grounds allowed under Section 2, Rule 47 of the 1997 Rules of Civil Procedure applied by the CA in dismissing the subject petition for annulment of judgment.

The grounds relied upon by the petitioners are not among those allowed under the law and the rules on annulment of judgment.

Firstly, as correctly held by the CA, the summary judgment in question cannot be annulled on jurisdictional ground because the trial court had jurisdiction over the case (Civil Case No. IR-2403) in which the summary judgment was rendered, the parties thereto and the subject matter thereof. In fact, Hermogena, the petitioners' predecessor-in-interest and the defendant in that case, voluntarily submitted to that jurisdiction, having voluntarily participated in the proceedings therein and having subsequently appealed from the adverse judgment reached thereat. Unfortunately for the petitioners, the appeal interposed by Hermogena from the summary judgment of the trial court was dismissed by the CA for nonpayment of docket fees.

Secondly, and again as correctly ruled by the CA, petitioners failed to establish the existence of fraud, the other ground for annulment of judgment. "The kind of fraud that justifies the annulment of a judgment is extrinsic fraud. This refers to some act or conduct of the prevailing party which has prevented the aggrieved party from having a trial or presenting his case to the court, or was used to procure judgment without a fair submission of the

controversy. Extrinsic fraud refers to acts outside the trial."[8]

Time and again, we rule that:

> There is extrinsic fraud within the meaning of Sec. 9 par. (2), of B.P. Blg. 129, where it is one the effect of which prevents a party from hearing a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters, not pertaining to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy.[9]

For sure, petitioners never alleged any act committed by the prevailing party before the trial court constituting extrinsic fraud. In fact, the CA correctly noted that Hermogena actively participated in every stage of the proceedings which led to the rendition of the summary judgment sought to be annulled. The records clearly showed that the prevailing party before the trial court did not commit any act which would have prevented Hermogena from having her day in court. Hermogena was never denied her right to due process.

This Court has held that the essence of due process is simply an opportunity to be heard, and not that an actual hearing should always and indispensably be held.[10] The RTC gave Hermogena an opportunity to oppose respondents' motion for summary judgment by requiring her to file her comment/opposition thereto, but Hermogena did not file any.

Petitioners laid the blame on Hermogena's counsel at the court of origin, Atty. Niñofranco, alleging not only gross negligence on the part of said counsel but even connivance with the respondents (plaintiffs thereat) by not filing any comment or opposition to the respondents' motion for summary judgment. However, not only did petitioners fail to allege the ultimate facts to establish the alleged connivance, but more importantly, the further allegation of "professional delinquency or infidelity" on the part of Atty. Niñofranco tends to negate rather than affirm such connivance because the alleged delinquency or infidelity connotes mere negligence, while an alleged connivance connotes deliberate intent. Such concepts are diametrically opposed. An act of the will is necessary for deliberate intent to exist; such is not necessary in an act of negligence. Neglect or professional delinquency, no matter how gross it may be, cannot amount to connivance unless a deliberate intent to defraud is clearly established. It was not so established in this case.

Absent any clear allegation of ultimate facts constituting a deliberate intent on the part of Hermogena's counsel to defraud her, or connivance with respondents to deprive her of her day in court, a presumption of regularity on the part of Atty. Niñofranco in the performance of his sworn duty will be upheld. "As officers of the court, lawyers have a responsibility to assist in the proper administration of justice. As an officer of the court, he has in his favor the presumption of regularity in the performance of his sworn duties and responsibilities."[11]

In the matter of Hermogena's alleged valid defenses, suffice it to say that it is now too late in the day for her to harp on those defenses on account of her failure, despite being required, to file her comment/opposition to her adversary's motion for summary judgment.

Given the above, the Court is left without any recourse but to uphold the principle of immutability of final judgment. So it is that in Pacquing v. Court of Appeals,[12] the Court declared:

> It is an important fundamental principle in our Judicial system that every litigation must come to an end.
>
> Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply in number to the detriment of the administration of justice.

WHEREFORE, the petition is DENIED for lack of merit.

No pronouncement as to costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

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[1] Penned by Associate Justice Ramon Mabutas, Jr., with Associate Justices Hilarion L. Aquino and Wenceslao I. Agnir, Jr. (all ret.), concurring; rollo, pp. 23-32.

[2] Id. at 41.

[3] CA Rollo, p. 23.

[4] Rollo, p. 45.

[5] RTC Rollo, pp. 68-71.

[6] Supra note 1.

[7] Goldloop Properties, Inc. v. CA, G.R. No. 99431, August 11, 1992, 212 SCRA 498; Ramirez v. CA, G.R. No. 76366, July 3, 1990, 187 SCRA 153; Mercado v. Ubay, G.R. No. L-35830, July 24, 1990, 187 SCRA 719.

[8] Joven v. Calilung, G.R. No. 140984, December 13, 2005, 477 SCRA 470.

[9] Ancheta v. Guersey-Dalaygon, G.R. No. 139868, June 8, 2006.

[10] Conti v. NLRC, G.R. No. 119253, April 10, 1997, 271 SCRA 114; citing Roces v. Antiporda, A.C. No. 2936, March 31, 1995, 243 SCRA 108; and Pamantasan ng Lungsod ng Maynila v. CSC, G.R. No. 107590, 21 February 1995, 241 SCRA 506.

[11] People v. Del Rosario, 411 Phil. 676 (2001).

[12] 200 Phil. 516 (1982).

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