ESTATE OF TARCILA VDA. DE VILLEGAS, PETITIONER, VS. JESUS R. GABOYA, JOSE CUENCO BORROMEO, AND RICARDO V. REYES, IN THEIR CAPACITY AS ADMINISTRATORS OF THE INTESTATE ESTATE OF V...

G.R. NO. 143006. July 14, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for review on certiorari of the Resolutions of the Court of Appeals in CA-G.R. CV No. 57852 promulgated on July 28, 1999 and April 18, 2000. The Resolution dated July 28, 1999 dismissed petitioner's appeal, while the Resolution dated April 18, 2000 denied petitioner's motion for reconsideration.

The antecedents are as follows:

Vito Borromeo and Juliana Evangelista were husband and wife. Juliana died intestate on August 13, 1939, while Vito died on March 13, 1952. They had no children but left extensive properties in the province of Cebu.

Special Proceedings No. 916-R

On April 19, 1952, Jose H. Junquera filed in the Court of First Instance of Cebu a petition for the probate of a document, purportedly Vito Borromeo's will, devising all his properties to Tomas, Fortunato and Amelia, all surnamed Borromeo, in equal and undivided shares, and designating Junquera as executor. On May 28, 1960, in Special Proceedings No. 916-R, the trial court denied the probate as the will was found to be a forgery. In Junquera v. Borromeo,[1] promulgated on March 30, 1967, this Court affirmed the trial court's decision.

Special Proceedings No. 916-R was converted into an intestate proceeding for the settlement of the estate of Vito Borromeo. Several persons appeared before the court claiming to be heirs of Vito Borromeo.

On April 10, 1969, the trial court, invoking Article 972 of the Civil Code, issued an order declaring the following, to the exclusion of all others, as the intestate heirs of Vito Borromeo: Jose Cuenco Borromeo, Judge Crispin Borromeo, Vitaliana Borromeo, Patrocinio Borromeo Herrera, Salud Borromeo, Asuncion Borromeo, Marcial Borromeo, Amelinda Borromeo de Talam, and the heirs of Canuto Borromeo. The trial court also ordered that the assets of the intestate estate of Vito Borromeo be divided into 4/9 and 5/9 groups and distributed in equal shares among the nine intestate heirs.

On April 21 and 30, 1969, the declared heirs, except for Patrocinio B. Herrera, signed an agreement to partition the properties of the deceased Vito Borromeo. The agreement was approved by the trial court in its Order of August 15, 1969. In the Order, the trial court directed the Administrator, Atty. Jesus Gaboya, Jr., to partition the properties of the deceased in the way and manner they were divided and partitioned in the Agreement of Partition.

On October 2, 1969, Tarcila Vda. de Villegas filed a Third Party Claim and/or Claim in Intervention in Special Proceedings No. 916-R claiming ownership and seeking recovery of the one-half share of the late Juliana

Evangelista de Borromeo in the conjugal properties left by the Spouses Vito Borromeo and Juliana Evangelista. Tarcila Vda. de Villegas was the wife of deceased Arturo Villegas, alleged nephew and heir of Juliana Evangelista. The trial court denied Tarcila's claim in intervention on the ground that as a probate court, it had no jurisdiction to determine with finality the question of ownership over the said one-half portion.

On August 25, 1972, Fortunato Borromeo, who had earlier claimed to be an heir under the forged will, filed a motion before the trial court praying that he be declared as one of the heirs of the deceased Vito Borromeo, alleging that he is an illegitimate son of the deceased and that in the declaration of heirs made by the trial court, he was omitted, in disregard of the law making him a forced heir entitled to receive a legitime like all other forced heirs.

On June 25, 1973, the trial court dismissed the motion since it was already barred by the Order dated April 10, 1969 declaring the persons named therein as the legal heirs of the deceased Vito Borromeo.

Fortunato filed a motion for reconsideration, and claimed that in a Waiver of Hereditary Rights dated July 31, 1967, five of the nine heirs relinquished to him their shares in the disputed estate.

In an Order dated December 24, 1974, the trial court declared Fortunato Borromeo as entitled to 5/9 of the estate of Vito Borromeo after concluding that the five declared heirs who signed the waiver agreement assigning their hereditary rights to Fortunato had lost the same rights. A motion for reconsideration of the Order was denied on July 7, 1975.

On appeal to the Court of Appeals, the same was certified to this Court as only questions of law were involved. The case, docketed as G.R. No. L-41174, was decided together with four other cases[2] stemming from Special Proceedings No. 916-R in Borromeo-Herrera v. Borromeo[3] promulgated on July 23, 1987. The dispositive portion of the Decision reads:

> WHEREFORE, --
>
> (1) In G.R. No. 41171, the order of the respondent judge dated December 24, 1974, declaring the respondent entitled to 5/9 of the estate of the late Vito Borromeo and the order dated July 7, 1975, denying the petitioner's motion for reconsideration of the aforementioned order are hereby SET ASIDE for being NULL and VOID;
>
> (2) In G.R. No. 55000, the order of the trial court declaring the waiver document valid is hereby SET ASIDE;
>
> (3) In G.R. No. 63818, the petition is hereby DENIED. The issue in the decision of the Intermediate Appellate Court disqualifying and ordering the inhibition of Judge Francisco P. Burgos from further hearing Special Proceedings No. 916-R is declared moot and academic. The judge who has taken over the sala of retired Judge Francisco P. Burgos shall immediately conduct hearings with a view to terminating the proceedings. In the event that the successor-judge is likewise disqualified, the order of the Intermediate Appellate Court directing the Executive Judge of the
>
> Regional Trial Court of Cebu to re-raffle the case shall be implemented;
>
> (4) In G.R. No. 65995, the petition is hereby GRANTED. The issue seeking to restrain Judge Francisco P. Burgos from further acting in G.R. No. 63818 is MOOT and ACADEMIC;
>
> (5) In G.R. No. 62895, the trial court is hereby ordered to speedily terminate the (sic) close Special Proceedings No. 916-R, subject to the submission of an inventory of the real properties of the estate and an accounting of the cash and bank deposits by the petitioner-administrator of the estate as required by this Court in its Resolution dated June 15, 1983; and
>
> (6) The portion of the Order of August 15, 1969, segregating 40% of the market value of the estate from which

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> attorney's fees shall be taken and paid should be, as it is hereby DELETED. The lawyers should collect from the heirs-distributees who individually hired them, attorney's fees according to the nature of the services rendered but in amounts which should not exceed more than 20% of the market value of the property the latter acquired from the estate as beneficiaries.
>
> SO ORDERED.[4]

On May 29, 1989, herein petitioner filed a Motion to Liquidate the Conjugal Properties and Separate Paraphernal Properties of the Wife of Decedent Vito Borromeo during the pendency of Special Proceedings No. 916-R at the Regional Trial Court of Cebu. Petitioner also filed a motion for resolution. Both motions were denied by the trial court in its Order of August 25, 1989.

On October 31, 1989, petitioner filed with the Court of Appeals a petition for certiorari with a prayer for injunction seeking the annulment and setting aside of the trial court's Order dated August 25, 1989. The petition was docketed as CA-G.R. SP No. 19284, entitled Estate of Tarcila Vda. de Villegas v. Honorable German Lee, et al.

In a Decision[5] promulgated on August 30, 1990, the Court of Appeals dismissed the petition for lack of merit.

On November 20, 1990, petitioner filed a petition for certiorari questioning the decision of the Court of Appeals with this Court, docketed as G.R. No. 98179. The petition was denied due to failure to comply with the following requirements of the Rules of Court: (1) Full payment of the prescribed docketing and other fees at the time of the filing of the petition; and (2) a clearly legible duplicate original or certified true copy of the decision, judgment, resolution or order subject of the petition appended to the petition.

Civil Case No. R-11841

Meantime, on August 26, 1970, petitioner Estate of Tarcila[6] filed with the Regional Trial Court of Cebu the instant civil case for accounting, liquidation of conjugal partnership, separation and delivery of property, docketed as Civil Case No. R-11841, which was incidentally raffled off to the same branch trying Special Proceedings No. 916-R.

On February 28, 1989, the trial court dismissed Civil Case No. R-11841. The dispositive portion of the Order of dismissal reads:

> WHEREFORE, in view of the fact that the plaintiff has not pursued her claims properly, by filing an intervention in Sp. Proc. No. 916 and on account of laches, the plaintiff's claim in this case may be deemed to have been barred by laches as held in the case of Go Chi Gun & Go Away, et al. versus Go Cho, 96 Phil. 622. This Court also hereby resolves to dismiss this case for having become moot and academic by virtue of the decision of the Supreme Court in the five enumerated cases in relation to Sp. Proc. No. 916.
>
> IT IS SO ORDERED.[7]

On May 16, 1989, the trial court denied the motion for reconsideration of the Order of dismissal.

Petitioner appealed to the Court of Appeals. In a Decision[8] dated December 8, 1992 in CA-G.R. CV No. 21826, the Court of Appeals set aside the Order of dismissal and remanded the case to the court of origin for further proceedings.

In a Resolution dated February 18, 1993, the Court of Appeals denied the motion for reconsideration filed by respondent Raul R. Sesbreno,[9] and a motion filed by petitioner for the appellate court to direct the Regional Trial Court of Cebu, Branch 15 to segregate its alleged one-half portion from the Vito Borromeo estate proceedings pending determination of Civil Case No. R-11841.

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Raul Sesbreno filed before this Court a petition for review on certiorari of the Decision of the Court of Appeals dated December 8, 1992, which set aside the Order of dismissal of the trial court. This Court denied the petition in a Resolution[10] dated October 19, 1994.

While some defendants filed their respective Answers and counterclaims with the trial court, defendants Jose Borromeo, Maria B. Putong, Federico Borromeo, Consuelo Borromeo, Benjamin S. Rallon, and the Estate of Salud Borromeo filed on October 11, 1996 an Amended Motion to Dismiss Civil Case No. R-11841 on the ground that plaintiff's cause of action was already barred by a prior judgment, and the plaintiff failed to prosecute its action for an unreasonable length of time. Plaintiff (petitioner) filed an Opposition to the Amended Motion to Dismiss.

On September 15, 1997, the trial court issued an Order dismissing the case, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing considerations, this Court resolves to finally DISMISS this case on the grounds of prescription, laches and estoppel and, that the cause of action is now barred by a prior judgment.
>
> SO ORDERED.[11]

Petitioner appealed to the Court of Appeals. Respondents filed a Motion to Dismiss Appeal on the following grounds: (a) Appellant did not state in the caption all the names of the defendants-appellees who number more that 50 in all in violation of Sec. 1, Rule 44 of the 1997 Rules of Civil Procedure; (b) appellant failed to follow Sec. 4,[12] Rule 41, Rules of Civil Procedure; and (c) appellant failed to follow Sec. 13 (a), (c) and (d), Rule 44 of the Rules of Civil Procedure. Petitioner filed an Opposition to the motion.

In a Resolution promulgated on July 28, 1999 in CA-G.R. CV No. 57852, the Court of Appeals stated that appellant (petitioner) validly refuted the first two grounds, but failed to justify its non-compliance with the third ground, that is, compliance with paragraphs (a), (c) and (d) of Sec. 13, Rule 44 of the Rules of Civil Procedure.

The Court of Appeals found, thus:

> A perusal of the appellant's brief reveals that it does not have a subject index with a digest of the arguments and page references, a table of cases alphabetically arranged; under the heading "Statement of the Case" there is no statement as to the summary of the proceedings, the appealed rulings and orders of the court; and there is no "Statement of the Facts" showing a clear and concise statement in a narrative form the facts admitted by both parties and those in controversy in clear violation of the Revised Rules of Court, thereby warranting dismissal of the appeal. The appeal can even be considered as dilatory.[13]

The dispositive portion of the Resolution reads:

> WHEREFORE, the motion to dismiss appeal is granted, and the appeal is hereby dismissed.
>
> SO ORDERED.[14]

In a Resolution[15] dated April 18, 2000, the Court of Appeals denied petitioner's motion for reconsideration for lack of merit.

On June 13, 2000, petitioner filed this petition for review on certiorari of the decision of the Court of Appeals.

Petitioner raises the following issues:

I

WHETHER OR NOT THE APPELLANT'S BRIEF IN CA-G.R. CV NO. 57852 SUBSTANTIALLY COMPLIED WITH THE REQUIREMENTS OF SEC. 13 (A), (C) AND (D) RULE 44 OF THE 1997 RULES OF CIVIL PROCEDURE.

II

WHETHER OR NOT THE ORDER DATED SEPTEMBER 15, 1997 DISMISSING THE COMPLAINT IN CIVIL CASE NO. R-11841 IS NULL AND VOID FOR BEING CONTRARY TO THE DECISION OF THE COURT OF APPEALS IN CA-G.R. NO. 21826 WHICH JUSTIFIES SETTING ASIDE TECHNICALITIES AND THE AFOREMENTIONED SEPTEMBER 15, 1997 ORDER.[16]

Petitioner contends that it has substantially complied with the requirements of Sec. 13 (a), (c) and (d), Rule 44 of the Rules of Civil Procedure. It prays for a liberal construction of the Rules in accordance with Sec. 6, Rule 1 of the Rules of Court in order to promote its objective of securing a just, speedy and inexpensive determination of every action and proceeding.

An examination of the Appellant's Brief shows that, indeed, petitioner failed to comply with the requirements of Sec. 13 (a), (c) and (d), Rule 44 of the Rules of Civil Procedure, which provides:

SEC. 13. Contents of appellant's brief.--The appellant's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

x x x

(c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record.

The Appellant's Brief does not have a subject index of the matter in the brief as specified in Sec. 13 (a), Rule 44 of the Rules of Court. Moreover, the Statement of the Case has no statement of the summary of the proceedings, the appealed rulings and orders of the court, with page references to the record as required by Sec. 13 (c), Rule 44 of the Rules of Court. Further, the Appellant's Brief has no portion entitled "Statement of Facts," and, therefore, no clear and concise statement in narrative form of the facts admitted by both parties and those in controversy, with page references to the record, in violation of Sec. 13 (d), Rule 44 of the Rules of Court.

The Court of Appeals was, therefore, justified in dismissing the appeal under Sec. 1 (f), Rule 50 of the Rules of Court, thus:

SEC. 1. Grounds for dismissal of appeal. –An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x

(f) Absence of specific assignment of errors in the appellant's brief or of page references to the record as

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required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44.[17]

In Del Rosario v. Court of Appeals[18] and Bucad v. Court of Appeals,[19] the Court dismissed the appeal for a similar violation by the appellants of Sec. 1, Rule 50 of the Rules of Court.

The right to appeal is a statutory right and a party who seeks to avail of the right must faithfully comply with the rules.[20] Petitioner's plea for liberal application of the rules would mean deviation from the aforementioned rules, which cannot be tolerated. These rules are designed to facilitate the orderly disposition of appealed cases.[21]

As a result, there is no need to discuss the second issue raised by petitioner.

WHEREFORE, the petition is DENIED. The Resolutions of the Court of Appeals dated July 28, 1999 and April 18, 2000 are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

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[1] No. L-18498, 19 SCRA 656.

[2] Docketed as G.R. No. L-55000, G.R. No. L-62895, G.R. No. L-63818 and G.R. No. L-65995.

[3] G.R. No. L-41174, G.R. No. L-55000, G.R. No. L-62895, G.R. No. L-63818 and G.R. No. L-65995, July 23, 1987, 152 SCRA 171.

[4] Id. at 195-196.

[5] Records, Vol. IV, p. 2.

[6] Tarcila died on August 4, 1970.

[7] CA Decision, CA-G.R. CV No. 21826, Rollo, p. 83.

[8] Id. at 81.

[9] Also spelled as "Sesbreño."

[10] Records, Vol. IV, p. 13.

[11] Id. at 258.

[12] SEC. 4. Appellate court docket and other lawful fees.–Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

[13] Rollo, p. 43.

[14] Id. at 44.

[15] Id. at 46.

[16] Id. at 27.

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[17] Underscoring supplied.

[18] G.R. No. 113890, February 22, 1995, 241 SCRA 553.

[19] G.R. No. 93783, December 11, 1992, 216 SCRA 423.

[20] Supra, note 18, at 557.

[21] Ibid.

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