

GENEROSO SALIGUMBA, ERNESTO SALIGUMBA, AND HEIRS OF SPOUSES VALERIA SALIGUMBA AND ELISEO SALIGUMBA, SR., PETITIONERS, VS. MONICA PALANOG, RESPONDENT.

G.R. No. 143365. December 04, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review of the Decision dated 24 May 2000 of the Regional Trial Court, Branch 5, Kalibo, Aklan (RTC-Branch 5) in Civil Case No. 5288 for Revival of Judgment. The case is an offshoot of the action for Quietening of Title with Damages in Civil Case No. 2570.

The Facts

Monica Palanog, assisted by her husband Avelino Palanog (spouses Palanogs), filed a complaint dated 28 February 1977 for Quietening of Title with Damages against defendants, spouses Valeria Saligumba and Eliseo Saligumba, Sr. (spouses Saligumbas), before the Regional Trial Court, Branch 3, Kalibo, Aklan (RTC-Branch 3). The case was docketed as Civil Case No. 2570. In the complaint, spouses Palanogs alleged that they have been in actual, open, adverse and continuous possession as owners for more than 50 years of a parcel of land located in Solido, Nabas, Aklan. The spouses Saligumbas allegedly prevented them from entering and residing on the subject premises and had destroyed the barbed wires enclosing the land. Spouses Palanogs prayed that they be declared the true and rightful owners of the land in question.

When the case was called for pre-trial on 22 September 1977, Atty. Edilberto Miralles (Atty. Miralles), counsel for spouses Saligumbas, verbally moved for the appointment of a commissioner to delimit the land in question. Rizalino Go, Deputy Sheriff of Aklan, was appointed commissioner and was directed to submit his report and sketch within 30 days.[1] Present during the delimitation were spouses Palanogs, spouses Saligumbas, and Ernesto Saligumba, son of spouses Saligumbas.[2]

After submission of the Commissioner's Report, spouses Palanogs, upon motion, were granted 10 days to amend their complaint to conform with the items mentioned in the report.[3]

Thereafter, trial on the merits ensued. At the hearing on 1 June 1984, only the counsel for spouses Palanogs appeared. The trial court issued an order resetting the hearing to 15 August 1984 and likewise directed spouses Saligumbas to secure the services of another counsel who should be ready on that date.[4] The order sent to Eliseo Saligumba, Sr. was returned to the court unserved with the notation "Party-Deceased" while the order sent to defendant Valeria Saligumba was returned with the notation "Party in Manila." [5]

At the hearing on 15 August 1984, spouses Palanogs' direct examination was suspended and the continuation of the hearing was set on 25 October 1984. The trial court stated that Atty. Miralles, who had not withdrawn as counsel for spouses Saligumbas despite his appointment as Municipal Circuit Trial Court judge, would be held

responsible for the case of spouses Saligumbas until he formally withdrew as counsel. The trial court reminded Atty. Miralles to secure the consent of spouses Saligumbas for his withdrawal.[6] A copy of this order was sent to Valeria Saligumba but the same was returned unserved with the notation "Party in Manila." [7]

The hearing set on 25 October 1984 was reset to 25 January 1985 and the trial court directed that a copy of this order be sent to Eliseo Saligumba, Jr. at COA, PNB, Manila.[8]

The presentation of evidence for spouses Palanogs resumed on 25 January 1985 despite the motion of Atty. Miralles for postponement on the ground that his client was sick. The exhibits were admitted and plaintiffs spouses Palanogs rested their case. Reception of evidence for the defendants spouses Saligumbas was scheduled on 3, 4, and 5 June 1985.[9]

On 3 June 1985, only spouses Palanogs and counsel appeared. Upon motion of the spouses Palanogs, spouses Saligumbas were deemed to have waived the presentation of their evidence.

On 3 August 1987, after a lapse of more than two years, the trial court considered the case submitted for decision.

On 7 August 1987, RTC-Branch 3 rendered a judgment in Civil Case No. 2570 declaring spouses Palanogs the lawful owners of the subject land and ordering spouses Saligumbas, their agents, representatives and all persons acting in privity with them to vacate the premises and restore possession to spouses Palanogs.

The trial court, in a separate Order dated 7 August 1987, directed that a copy of the court's decision be furnished plaintiff Monica Palanog and defendant Valeria Saligumba.

Thereafter, a motion for the issuance of a writ of execution of the said decision was filed but the trial court, in its Order dated 8 May 1997, ruled that since more than five years had elapsed after the date of its finality, the decision could no longer be executed by mere motion.

Thus, on 9 May 1997, Monica Palanog (respondent), now a widow, filed a Complaint seeking to revive and enforce the Decision dated 7 August 1987 in Civil Case No. 2570 which she claimed has not been barred by the statute of limitations. She impleaded petitioners Generoso Saligumba and Ernesto Saligumba, the heirs and children of the spouses Saligumbas, as defendants. The case was docketed as Civil Case No. 5288 before the RTC-Branch 5.

Petitioner Generoso Saligumba, for himself and in representation of his brother Ernesto who was out of the country working as a seaman, engaged the services of the Public Attorney's Office, Kalibo, Aklan which filed a motion for time to allow them to file a responsive pleading. Petitioner Generoso Saligumba filed his Answer[10] alleging that: (1) respondent had no cause of action; (2) the spouses Saligumbas died while Civil Case No. 2570 was pending and no order of substitution was issued and hence, the trial was null and void; and (3) the court did not acquire jurisdiction over the heirs of the spouses Saligumbas and therefore, the judgment was not binding on them.

Meanwhile, on 19 December 1997, the trial court granted respondent's motion to implead additional defendants namely, Eliseo Saligumba, Jr. and Eduardo Saligumba, who are also the heirs and children of spouses Saligumbas.[11] They were, however, declared in default on 1 October 1999 for failure to file any responsive pleading.[12]

The Trial Court's Ruling

On 24 May 2000, the RTC-Branch 5 rendered a decision in favor of respondent ordering the revival of judgment in Civil Case No. 2570. The trial court ruled that the non-substitution of the deceased spouses did not have any legal significance. The land subject of Civil Case No. 2570 was the exclusive property of defendant Valeria

Saligumba who inherited the same from her deceased parents. The death of her husband, Eliseo Saligumba, Sr., did not change the complexion of the ownership of the property that would require his substitution. The spouses Saligumbas' children, who are the petitioners in this case, had no right to the property while Valeria Saligumba was still alive. The trial court further found that when defendant Valeria Saligumba died, her lawyer, Atty. Miralles, did not inform the court of the death of his client. The trial court thus ruled that the non-substitution of the deceased defendant was solely due to the negligence of counsel. Moreover, petitioner Ernesto Saligumba could not feign ignorance of Civil Case No. 2570 as he was present during the delimitation of the subject land. The trial court likewise held that the decision in Civil Case No. 2570 could not be the subject of a collateral attack. There must be a direct action for the annulment of the said decision.

Petitioners elevated the matter directly to this Court. Hence, the present petition.

The Court's Ruling

The instant case is an action for revival of judgment and the judgment sought to be revived in this case is the decision in the action for quieting of title with damages in Civil Case No. 2570. This is not one for annulment of judgment.

An action for revival of judgment is no more than a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without it being executed upon motion of the prevailing party. It is not intended to re-open any issue affecting the merits of the judgment debtor's case nor the propriety or correctness of the first judgment.[13] An action for revival of judgment is a new and independent action, different and distinct from either the recovery of property case or the reconstitution case, wherein the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered.[14] Revival of judgment is premised on the assumption that the decision to be revived, either by motion or by independent action, is already final and executory.[15]

The RTC-Branch 3 Decision dated 7 August 1987 in Civil Case No. 2570 had been rendered final and executory by the lapse of time with no motion for reconsideration nor appeal having been filed. While it may be true that the judgment in Civil Case No. 2570 may be revived and its execution may be had, the issue now before us is whether or not execution of judgment can be issued against petitioners who claim that they are not bound by the RTC-Branch 3 Decision dated 7 August 1987 in Civil Case No. 2570.

Petitioners contend that the RTC-Branch 3 Decision of 7 August 1987 in Civil Case No. 2570 is null and void since there was no proper substitution of the deceased spouses Saligumbas despite the trial court's knowledge that the deceased spouses Saligumbas were no longer represented by counsel. They argue that they were deprived of due process and justice was not duly served on them.

Petitioners argue that the trial court even acknowledged the fact of death of spouses Saligumbas but justified the validity of the decision rendered in that case despite lack of substitution because of the negligence or fault of their counsel. Petitioners contend that the duty of counsel for the deceased spouses Saligumbas to inform the court of the death of his clients and to furnish the name and address of the executor, administrator, heir or legal representative of the decedent under Rule 3 presupposes adequate or active representation by counsel. However, the relation of attorney and client was already terminated by the appointment of counsel on record, Atty. Miralles, as Municipal Circuit Trial Court judge even before the deaths of the spouses Saligumbas were known. Petitioners invoke the Order of 1 June 1984 directing the spouses Saligumbas to secure the services of another lawyer to replace Atty. Miralles. The registered mail containing that order was returned to the trial court with the notation that Eliseo Saligumba, Sr. was "deceased." Petitioners thus question the decision in Civil Case No. 2570 as being void and of no legal effect because their parents were not duly represented by counsel of record. Petitioners

further argue that they have never taken part in the proceedings in Civil Case No. 2570 nor did they voluntarily appear or participate in the case. It is unfair to bind them in a decision rendered against their deceased parents. Therefore, being a void judgment, it has no legal nor binding effect on petitioners.

Civil Case No. 2570 is an action for quieting of title with damages which is an action involving real property. It is an action that survives pursuant to Section 1, Rule 87[16] as the claim is not extinguished by the death of a party. And when a party dies in an action that survives, Section 17 of Rule 3 of the Revised Rules of Court[17] provides for the procedure, thus:

Section 17. Death of Party. - After a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased. The court charges involved in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint guardian ad litem for the minor heirs. (Emphasis supplied)

Under the express terms of Section 17, in case of death of a party, and upon proper notice, it is the duty of the court to order the legal representative or heir of the deceased to appear for the deceased. In the instant case, it is true that the trial court, after receiving an informal notice of death by the mere notation in the envelopes, failed to order the appearance of the legal representative or heir of the deceased. There was no court order for deceased's legal representative or heir to appear, nor did any such legal representative ever appear in court to be substituted for the deceased. Neither did the respondent ever procure the appointment of such legal representative, nor did the heirs ever ask to be substituted.

It appears that Eliseo Saligumba, Sr. died on 18 February 1984 while Valeria Saligumba died on 2 February 1985. No motion for the substitution of the spouses was filed nor an order issued for the substitution of the deceased spouses Saligumbas in Civil Case No. 2570. Atty. Miralles and petitioner Eliseo Saligumba, Jr., despite notices sent to them to appear, never confirmed the death of Eliseo Saligumba, Sr. and Valeria Saligumba. The record is bereft of any evidence proving the death of the spouses, except the mere notations in the envelopes enclosing the trial court's orders which were returned unserved.

Section 17 is explicit that the duty of the court to order the legal representative or heir to appear arises only "upon proper notice." The notation "Party-Deceased" on the unserved notices could not be the "proper notice" contemplated by the rule. As the trial court could not be expected to know or take judicial notice of the death of a party without the proper manifestation from counsel, the trial court was well within its jurisdiction to proceed as it did with the case. Moreover, there is no showing that the court's proceedings were tainted with irregularities.[18]

Likewise, the plaintiff or his attorney or representative could not be expected to know of the death of the defendant if the attorney for the deceased defendant did not notify the plaintiff or his attorney of such death as required by the rules.[19] The judge cannot be blamed for sending copies of the orders and notices to defendants spouses in the absence of proof of death or manifestation to that effect from counsel.[20]

Section 16, Rule 3 of the Revised Rules of Court likewise expressly provides:

SEC. 16. Duty of attorney upon death, incapacity or incompetency of party. - Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative.

It is the duty of counsel for the deceased to inform the court of the death of his client. The failure of counsel to comply with his duty under Section 16 to inform the court of the death of his client and the non-substitution of such party will not invalidate the proceedings and the judgment thereon if the action survives the death of such party. The decision rendered shall bind the party's successor-in-interest.[21]

The rules operate on the presumption that the attorney for the deceased party is in a better position than the attorney for the adverse party to know about the death of his client and to inform the court of the name and address of his legal representative.[22]

Atty. Miralles continued to represent the deceased spouses even after the latter's demise. Acting on their behalf, Atty. Miralles even asked for postponement of the hearings and did not even confirm the death of his clients nor his appointment as Municipal Circuit Trial Court judge. These clearly negate petitioners' contention that Atty. Miralles ceased to be spouses Saligumbas' counsel.

Atty. Miralles still remained the counsel of the spouses Saligumbas despite the alleged appointment as judge. Records show that when Civil Case No. 2570 was called for trial on 25 October 1984, Atty. Miralles appeared and moved for a postponement. The 25 October 1984 Order reads:

O R D E R

Upon petition of Judge Miralles who is still the counsel on record of this case and who is held responsible for anything that will happen in this case, postpone the hearing of this case to JANUARY 25, 1985 AT 8:30 in the morning. x x x[23]

The trial court issued an Order dated 1 June 1984 directing the defendants to secure the services of another counsel. This order was sent to Eliseo Saligumba, Sr. by registered mail but the same was returned with the notation "Party-Deceased" while the notice to Valeria Saligumba was returned with the notation "Party in Manila." [24] Eliseo Saligumba, Sr. died on 18 February 1984. When Atty. Miralles appeared in court on 25 October 1984, he did not affirm nor inform the court of the death of his client. There was no formal substitution. The trial court issued an order resetting the hearing to 25 January 1985 and directed that a copy of the order be furnished petitioner Eliseo Saligumba, Jr. at COA, PNB, Manila by registered mail. [25] When the case was called on 25 January 1985, Atty. Miralles sought for another postponement on the ground that his client was sick and under medical treatment in Manila. [26] Again, there was no manifestation from counsel about the death of Eliseo Saligumba, Sr. The trial court issued an Order dated 25 January 1985 setting the reception of evidence for the defendants on 3, 4, and 5 June 1985. A copy of this order was sent to Eliseo Saligumba, Jr. by registered mail. Nonetheless, as the trial court in Civil Case No. 5288 declared, the non-substitution of Eliseo Saligumba, Sr. did not have any legal significance as the land subject of Civil Case No. 2570 was the exclusive property of Valeria Saligumba who inherited it from her deceased parents.

This notwithstanding, when Valeria Saligumba died on 2 February 1985, Atty. Miralles again did not inform the trial court of the death of Valeria Saligumba. There was no formal substitution nor submission of proof of death of Valeria Saligumba. Atty. Miralles was remiss in his duty under Section 16, Rule 3 of the Revised Rules of Court. The counsel of record is obligated to protect his client's interest until he is released from his professional relationship with his client. For its part, the court could recognize no other representation on behalf of the client except such counsel of record until a formal substitution of attorney is effected. [27]

An attorney must make an application to the court to withdraw as counsel, for the relation does not terminate formally until there is a withdrawal of record; at least, so far as the opposite party is concerned, the relation otherwise continues until the end of the litigation. [28] Unless properly relieved, the counsel is responsible for the conduct of the case. [29] Until his withdrawal shall have been approved, the lawyer remains counsel of record who

is expected by his client as well as by the court to do what the interests of his client require. He must still appear on the date of hearing for the attorney-client relation does not terminate formally until there is a withdrawal of record.[30]

Petitioners should have questioned immediately the validity of the proceedings absent any formal substitution. Yet, despite the court's alleged lack of jurisdiction over the persons of petitioners, petitioners never bothered to challenge the same, and in fact allowed the proceedings to go on until the trial court rendered its decision. There was no motion for reconsideration, appeal or even an action to annul the judgment in Civil Case No. 2570. Petitioners themselves could not feign ignorance of the case since during the pendency of Civil Case No. 2570, petitioner Ernesto Saligumba, son of the deceased spouses, was among the persons present during the delimitation of the land in question before the Commissioner held on 5 November 1977.[31] Petitioner Eliseo Saligumba, Jr. was likewise furnished a copy of the trial court's orders and notices. It was only the Answer filed by petitioner Generoso Saligumba in Civil Case No. 5288 that confirmed the dates when the spouses Saligumbas died and named the latter's children. Consequently, Atty. Miralles was responsible for the conduct of the case since he had not been properly relieved as counsel of record. His acts bind his clients and the latter's successors-in-interest.

In the present case for revival of judgment, the other petitioners have not shown much interest in the case. Petitioners Eliseo Saligumba, Jr. and Eduardo Saligumba were declared in default for failure to file their answer. Petitioner Ernesto Saligumba was out of the country working as a seaman. Only petitioner Generoso Saligumba filed an Answer to the complaint. The petition filed in this Court was signed only by petitioner Generoso Saligumba as someone signed on behalf of petitioner Ernesto Saligumba without the latter's authority to do so.

WHEREFORE, we DENY the petition. We AFFIRM the Decision dated 24 May 2000 of the Regional Trial Court, Branch 5, Kalibo, Aklan in Civil Case No. 5288. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, and Azcuna, JJ., concur.
Tinga,* J., in the result.

* As replacement of Justice Teresita J. Leonardo-De Castro who is on official leave per Special Order No. 539.

[1] Records of Civil Case No. 2570, p. 23.

[2] Id. at 31, Commissioner's Report.

[3] Id. at 55.

[4] Id. at 102.

[5] Id. at 104-105.

[6] Id. at 108.

[7] Id. at 112.

[8] Id. at 115.

[9] Id. at 119-120.

[10] Records of Civil Case No. 5288, pp. 10-12.

[11] Id. at 25.

[12] *Id.* at 49.

[13] *Panotes v. City Townhouse Development Corporation*, G.R. No. 154739, 23 January 2007, 512 SCRA 269; *Filipinas Investment and Finance Corporation v. Intermediate Appellate Court*, G.R. Nos. 66059-60, 4 December 1989, 179 SCRA 728; *Azotes v. Blanco*, 85 Phil. 90 (1949).

[14] *Juco v. Heirs of Toma Siy Chung Fu*, G.R. No. 150233, 16 February 2005, 451 SCRA 464; *Santana-Cruz v. Court of Appeals*, 414 Phil. 47 (2001).

[15] *Bañares II v. Balising*, 384 Phil. 567 (2000).

[16] Section 1, Rule 87 of the Revised Rules of Court provides:

SECTION 1. Actions which may and which may not be brought against executor or administrator. - No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him.

[17] Spouses Eliseo Saligumba, Sr. and Valeria Saligumba died before the effectivity of the 1997 Rules on Civil Procedure. Section 17, Rule 3 of the Rules of Court was amended and is now Section 16, Rule 3 of the 1997 Rules on Civil Procedure which reads:

Section 16. Death of a party; duty of counsel. - Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

[18] *Florendo, Jr. v. Coloma*, 214 Phil. 268 (1984).

[19] *Republic v. Bagtas*, No. L-17474, 25 October 1962, 6 SCRA 262.

[20] *Ang Kek Chen v. Judge Andrade*, 376 Phil. 136 (1999).

[21] *Benavidez v. Court of Appeals*, 372 Phil. 615 (1999).

[22] *Heirs of Maximo Regoso v. CA*, G.R. No. 91879, 6 July 1992, 211 SCRA 348.

[23] *Records of Civil Case No. 2570*, p. 115.

[24] *Id.* at 104-105.

[25] *Id.* at 115.

[26] Id. at 119.

[27] Wack Wack Golf and Country Club, Inc. v. Court of Appeals, 106 Phil. 501 (1959).

[28] Visitacion v. Manit, 137 Phil. 348 (1969).

[29] Tumbagahan v. Court of Appeals, No. L-32684, 20 September 1988, 165 SCRA 485; Cortez v. Court of Appeals, 172 Phil. 400 (1978).

[30] Orcino v. Gaspar, 344 Phil. 792 (1997).

[31] Records of Civil Case No. 2570, p. 31.

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