

RITA JUCO, PETITIONER, VS. HEIRS OF TOMAS SIY CHUNG FU REPRESENTED BY PETER SIY AND TOMAS SIY, JR., RESPONDENTS.

G.R. NO. 150233. February 16, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari of the Decision[1] of the Court of Appeals issued on 16 March 2001, affirming the decision[2] of the Regional Trial Court (RTC) of Naga City, Branch 20, ordering the revival of judgment in Civil Case No. 7281[3] dated 03 February 1976.

The Facts

On 22 April 1972, the predecessors-in-interest of herein respondents, Tomas Siy Chung Fu and Leoncio Siy Cong Bien, filed an action[4] for recovery of property with damages before the then Court of First Instance of Camarines Sur, Branch 1, against Esperanza P. Martinez, mother of herein petitioner.

After hearing, said court rendered a decision on 03 February 1976 in favor of therein plaintiffs, and against Esperanza Martinez, who thereupon filed a Motion for Reconsideration which was denied in an Order dated 28 April 1976 for lack of merit.

A notice of appeal was thereafter filed by Esperanza Martinez on 06 May 1976, together with a cash bond in the amount of P120. The filing of the record on appeal followed on 11 May 1976, which was subsequently denied in an Order dated 08 June 1976.

A Motion for Reconsideration with motion for contempt assailing the denial of the record on appeal was filed on 22 June 1976, and the same was set for hearing on 30 June 1976. However, said motion was left unresolved as the records of the case were burned in a fire that razed the Provincial Capitol of Camarines Sur on 26 June 1976.

On 01 October 1976, Tomas Siy Chung Fu filed a petition for reconstitution[5] of the records of the case. On 11 January 1978, while said petition was still pending, Tomas Siy Chung Fu died. Defendant Esperanza Martinez died on 03 June 1982.

Herein respondents, the heirs of Tomas Siy Chung Fu, filed a motion dated 03 August 1983 asking that they be allowed to substitute the deceased plaintiff. Said motion was approved by the trial court in an Order dated 05 November 1984, requiring the heirs of the plaintiff and the defendant to appear before the court in order to submit the Certificates of Death of both deceased and to manifest their express acceptance of the substitution.

For repeated failure of the heirs of Tomas Siy Chung Fu and their representatives to appear before the court, Rita Juco, the sole surviving heir of the deceased defendant Esperanza Martinez, filed a motion to dismiss the reconstitution case on 14 October 1988, which was granted by the lower court in an Order dated 19 January 1989. The court a quo declared:

WHEREFORE, for the repeated failure of the plaintiff to appear at the hearings of the case, for their failure to

prosecute their action for an unreasonable length of time and for their failure and/or refusal to comply with a lawful court orders (sic), this case is hereby ordered dismissed, with costs de oficio.[6]

The Motion for Reconsideration of the Order of dismissal having been denied, the heirs of Tomas Siy Chung Fu appealed on 21 March 1989. However, on 31 March 1989, said appeal was denied due course for having been filed out of time.

Despite the finality of the dismissal of the reconstitution case, the heirs of Tomas Siy Chung Fu filed a complaint[7] for revival of judgment on 20 December 1990 before Branch 20 of the RTC of Naga City. In said petition, they claimed that the decision in Civil Case No. 7281 dated 03 February 1976 was actually reconstituted in the dismissed petition for reconstitution (Civil Case No. R-581) and that the same had become final and executory.

In her answer, herein petitioner Rita Juco denied the allegations and maintained that the records and the decision of Civil Case No. 7281 were never reconstituted as, in fact, the petition for reconstitution was dismissed. She further argued that even granting, for the sake of argument, that the decision was reconstituted, the same did not become final and executory since at the time the records were destroyed, the said decision was being appealed and there was a pending motion for reconsideration of the disapproval of the record on appeal.

On 25 September 1991, the court a quo dismissed the complaint for revival of judgment, which was thereafter appealed by the heirs of Tomas Siy Chung Fu, to the Court of Appeals. In a Decision,[8] dated 09 August 1994, the appellate court held that the records and the decision in Civil Case No. 7281 were not reconstituted. According to the Court of Appeals:

There is the question of whether the decision in the recovery of property case was reconstituted in the reconstitution case.

It was not.

Plaintiffs, in saying that the decision was reconstituted, rely in the Order dated November 5, 1984, which partly states that:

“x x x, the court hereby resolves, in the interest of justice and equity and in order to fill up the deficiencies in the records of this case, to admit plaintiffs’ Annexes ‘A’, ‘B’ (which is the decision in the recovery of property case) and ‘C’ attached to the said ‘Omnibus Motion (1)’ and to form integral parts of the record in this case, as reconstituted” (Parenthetical notes and underscoring Ours, Records, Civil Case No. R-581, p.127).

The foregoing Order is nothing more than an order to admit the subject decision as one of the pleadings to be reconstituted. Said Order was not a final order which terminated the reconstitution case. Rather, at that stage, the reconstitution court was still in the process of admitting pleadings and documents to be reconstituted. If there was any grant at all, it was the grant of plaintiffs’ petition for reconstitution and the admission of their proffered (sic) pleadings and documents such as the subject decision. The admission of the subject decision in the reconstitution case does not make it reconstituted because the reconstitution case itself was eventually dismissed.[9]

The appellate court however made a parallel finding that, notwithstanding the failure of reconstitution, there should be a determination of whether or not the subject decision had become final, and that this question is best determined after trial, thus remanding the case to the lower court for further proceedings.

On 02 June 1999, the court a quo rendered a decision in favor of the heirs of Tomas Siy Chung Fu, ordering the revival of judgment in Civil Case No. 7281. Not satisfied with said ruling of the court, petitioner Rita Juco appealed the same to the Court of Appeals, alleging that the lower court erred in finding that the decision in Civil Case No. 7281 has become final and executory and that the same may be revived.

In its Decision,[10] the appellate court affirmed the findings of the RTC that Rita Juco is guilty of laches and her failure to take action implies lack of interest to enforce her right over the case. The Court of Appeals stated:

True, there was a pending motion for reconsideration at the time the records of Civil Case No. 7281 were burned. However, during the period from 26 June 1976 when the records were burned up to 20 December 1990 when the present case was filed, defendant-appellant, as the movant, did not take any action to have said motion resolved. As pointed out by the court a quo, for more than 14 years since 26 June 1976 appellant did nothing to have said motion for reconsideration acted upon by the court before which it filed. Indeed, defendant-appellant slept on her right to pursue the motion for reconsideration in question making her guilty of laches. She cannot now argue that the decision sought to be revived has not yet become final and executory simply because she filed a motion for reconsideration which by her negligence remained unresolved. Accordingly, We find well taken the findings and conclusion arrived at by the court a quo, to wit:

The mere lapse of time where defendant did not take action of her case (Civil Case No. 7281) is tantamount to negligence and abandonment and her claim that the judgment in Civil Case No. 7281 has not become final and executory is without merit as laches barred him (sic) from filing any action to reconsider her motion and to prove that the judgment rendered in Civil Case No. 7281 on February 3, 1976 is not yet final and executory.

...

Having found earlier that by reason of laches the decision sought to be revived had already become final and executory, We find no necessity to still pass upon the issue on the finality of the decision.[11]

Hence, the instant petition. The issues raised can be summarized as follows:

I.

Whether or not the decision sought to be revived became final and executory by reason of laches.

II.

Whether or not the decision in Civil Case No.7281 can be the proper subject of an action for revival of judgment.

III.

Whether or not the action for revival of judgment is already barred by prescription.

Ruling of the Court

I. Whether or not the decision sought to be revived became final and executory by reason of laches.

If it were not for the unfortunate event of a fire destroying the records of the original case for recovery of property with damages, this case would not have aggrandized into what it is now. The motion for reconsideration of the losing party in said case, the predecessor-in-interest of Rita Juco, would have been resolved in the ordinary course of events.

Alas, this is not to be so.

The RTC and the appellate court have drawn the conclusion that petitioner Rita Juco is guilty of laches, because she failed to take any action in securing the resolution of her Motion for Reconsideration. Both courts attribute to petitioner's negligence the lapse of time that the said motion has remained pending, thus adjudging that, by

reason of abandonment, her claim that the decision has not become final and executory is without merit.

We do not agree.

The Court, in the case of *Velez, Sr. v. Demetrio*,^[12] has defined laches as the failure of or neglect for an unreasonable and unexplained length of time to do that which by exercising due diligence, could or should have been done earlier, or to assert a right within reasonable time, warranting a presumption that the party entitled thereto has either abandoned it or declined to assert it. Thus, the doctrine of laches presumes that the party guilty of negligence had the opportunity to do what should have been done, but failed to do so. Conversely, if the said party did not have the occasion to assert the right, then, he can not be adjudged guilty of laches. Laches is not concerned with the mere lapse of time,^[13] rather, the party must have been afforded an opportunity to pursue his claim in order that the delay may sufficiently constitute laches.

It is worthy to note that the whole theory of reconstitution is to reproduce or replace records lost or destroyed so that said records may be complete and court proceedings may continue from the point or stage where said proceedings stopped due to the loss of the records.^[14] Thus, reconstitution must first be had before the proceedings before the lower court may judiciously continue. Consequently, if there was no proper reconstitution of the case, Rita Juco could not pursue the motion for reconsideration.

Contrary to the conclusion drawn by the appellate court from the testimony of Atty. Luciano Maggay, the lone witness in the remanded case, the records of Civil Case No. 7281 were never reconstituted. As previously declared by the Court of Appeals at the first instance when the issue of reconstitution was raised, the Order dated 05 November 1984 is nothing more than an order admitting the pleadings being submitted as one of those to be reconstituted. Contradictory to Atty. Maggay's interpretation of the said Order, the Court of Appeals determined that the Order was not a final order which terminated the reconstitution case but rather, an order granting the petition for reconstitution and the admission of the pre-offered documents.

It must be stressed at this point that it was due to the fault of respondent heirs of Tomas Siy Chung Fu that the records of the original case were never reconstituted, as in fact, the petition for reconstitution was dismissed for their failure to prosecute. Refuting the findings of the court a quo, as adopted by the Court of Appeals, Rita Juco did not sleep on her rights to pursue the motion for reconsideration making her guilty of laches. The records of the case will reveal that petitioner Rita Juco, and her mother before her, had indeed participated in the proceedings for the reconstitution of the records of the case. And that it was the heirs of Tomas Siy Chung Fu, the petitioners in the reconstitution case, who had failed to appear during said proceedings thus resulting in the dismissal of the case. Therefore, petitioner cannot be faulted if after the lapse of almost 29 years her motion for reconsideration is still to be heard, simply because there was no opportunity to proceed with said motion, the reconstitution of the case having failed.

Laches, being an equitable doctrine, cannot now be attributed to petitioner Rita Juco, as there was no reconstituted case where she could be afforded an opportunity to proceed with the motion for reconsideration. Accordingly, the ruling of the Court of Appeals, sustaining the RTC, that the decision in Civil Case No. 7281 has become final and executory by reason of laches is erroneous.

II. Whether or not the decision
in Civil Case No. 7281 can
be the proper subject of an
action for revival of judgment.

As pointed out by the appellate court, 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.[15] However, 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.[16] Hence, the need to make a determination of whether or not the decision in Civil Case No. 7281 has indeed become final and executory. For if the subject decision has already reached finality, then the conclusion of the appellate court is correct that the dismissal of the reconstitution case would not prevent respondents from reviving and thereafter executing the said decision.

A decision issued by a court is final and executory when such decision disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing else to be done but to enforce by execution what has been determined by the court,[17] such as when after the lapse of the reglementary period to appeal, no appeal has been perfected. In the case at bar, it is an undisputed fact that when the records of the original case were destroyed in the fire there was a pending motion for reconsideration of the disapproval of the record on appeal filed by petitioner. A motion for reconsideration has the effect of suspending the statutory period after which an order, decision, or judgment, in connection with which said motion was filed, becomes final. In effect, such motion for reconsideration has prevented the decision from attaining finality.

The findings of the Court of Appeals that notwithstanding the pendency of the motion for reconsideration, the decision in Civil Case No. 7281 has become final and executory by reason of laches cannot be sustained. As discussed above, the doctrine of laches cannot operate to lend finality to the decision since petitioner's failure to pursue the motion for reconsideration was not due to her negligence or abandonment, but was rather brought upon by the dismissal of the reconstitution case. Therefore, it is clear that the case has not reached finality at the time the records of the case were burnt.

Since the subject decision has not attained finality, Act 3110 entitled, "An Act to provide an adequate procedure for the reconstitution of the records of pending judicial proceedings and books, documents, and files of the office of the register of deeds, destroyed by fire or other public calamities, and for other purposes," is propitious. Thus, we find applicable Section 30 of said Act, which provides:

Section 30. When it shall not be possible to reconstitute a destroyed judicial record by means of the procedure established in this Act or for any reason not herein provided for, the interested parties may file their actions anew, upon payment of the proper fees, and such actions shall be registered as new actions and shall be treated as such. [Emphasis ours.]

Having declared that the decision in the recovery of property case may not be the proper subject of an action for revival of judgment, we find no necessity to pass upon the issue of whether or not the action for revival of judgment is already barred by prescription.

In conclusion, we are constrained to find that the Decision in Civil Case No. 7281 has not attained finality, therefore, the RTC decision ordering the revival of judgment in said case must be set aside. Parties are directed to comply with the applicable provisions of Act 3110 as applied in the dismissed reconstitution case.

WHEREFORE, premises considered, the petition is hereby GRANTED. The Decision of the Court of Appeals is REVERSED and SET ASIDE. No Costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

- [1] CA-G.R. CV No. 63342, penned by Associate Justice Buenaventura Guerrero with Associate Justices Eriberto Rosario, Jr., and Alicia Santos, concurring.
- [2] Civil Case No. RTC '90-2235 dated 02 June 1999.
- [3] Issued by the Court of First Instance of Camarines Sur, Branch 1.
- [4] Docketed as Civil Case No. 7281.
- [5] Docketed as Civil Case No. R-581 (7281).
- [6] Records, Civil Case No. R-581, p. 256.
- [7] Docketed as Civil Case No. RTC '90-2235.
- [8] CA G.R. CV No. 35574, penned by Associate Justice Cezar D. Francisco with Associate Justices Nathanael P. De Pano, Jr., and Buenaventura J. Guerrero, concurring.
- [9] Rollo, pp. 71-72.
- [10] Supra, note 1.
- [11] Rollo, pp. 30 and 32.
- [12] G.R. No. 128576, 13 August 2002, 387 SCRA 232, 236-237.
- [13] Bailon-Casilao v. Court of Appeals, G.R. No. L-78178, 15 April 1988, citing Tijam v. Sibonghanoy, G.R. No. L-21450, 25 April 1968, 23 SCRA 29.
- [14] Nacua v. Alo de Beltran, G.R. No. L-4933, 06 August 1953, 93 Phil 595, 600.
- [15] CA -G.R. CV No. 63342, Rollo, p. 31.
- [16] Rules of Court, Rule 39, Section 6. Execution by motion or by independent action. – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations; Tan Ching Ji v. Mapalo, G.R. No. L-21933, 22 February 1971, 37 SCRA 510; Santana-Cruz v. Court of Appeals, et al., G.R. No. 120176, 20 July 2001, 361 SCRA 520; Terry v. People of the Philippines, G.R. No. 136203, 16 September 1999, 314 SCRA 669.
- [17] Bañares II v. Balising, G.R. No. 132624, 13 March 2000, 328 SCRA 36.

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