

**LOLITA R. ALAMAYRI, PETITIONER, VS. ROMMEL, ELMER, ERWIN, ROILER AND AMANDA, ALL SURNAMED PABALE, RESPONDENTS.***G.R. No. 151243. April 30, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court filed by petitioner Lolita R. Alamayri (Alamayri) seeking the reversal and setting aside of the Decision,[2] dated 10 April 2001, of the Court of Appeals in CA-G.R. CV No. 58133; as well as the Resolution,[3] dated 19 December 2001 of the same court denying reconsideration of its aforementioned Decision. The Court of Appeals, in its assailed Decision, upheld the validity of the Deed of Absolute Sale, dated 20 February 1984, executed by Nelly S. Nave (Nave) in favor of siblings Rommel, Elmer, Erwin, Roiler and Amanda, all surnamed Pabale (the Pabale siblings) over a piece of land (subject property) in Calamba, Laguna, covered by Transfer Certificate of Title (TCT) No. T-3317 (27604); and, thus, reversed and set aside the Decision,[4] dated 2 December 1997, of the Regional Trial Court (RTC) of Pasay City, Branch 119 in Civil Case No. 675-84-C.[5] The 2 December 1997 Decision of the RTC declared null and void the two sales agreements involving the subject property entered into by Nave with different parties, namely, Sesinando M. Fernando (Fernando) and the Pabale siblings; and ordered the reconveyance of the subject property to Alamayri, as Nave's successor-in-interest.

There is no controversy as to the facts that gave rise to the present Petition, determined by the Court of Appeals to be as follows:

This is a Complaint for Specific Performance with Damages filed by Sesinando M. Fernando, representing S.M. Fernando Realty Corporation [Fernando] on February 6, 1984 before the Regional Trial Court of Calamba, Laguna presided over by Judge Salvador P. de Guzman, Jr., docketed as Civil Case No. 675-84-C against Nelly S. Nave [Nave], owner of a parcel of land located in Calamba, Laguna covered by TCT No. T-3317 (27604). [Fernando] alleged that on January 3, 1984, a handwritten "Kasunduan Sa Pagbibilihan" (Contract to Sell) was entered into by and between him and [Nave] involving said parcel of land. However, [Nave] reneged on their agreement when the latter refused to accept the partial down payment he tendered to her as previously agreed because she did not want to sell her property to him anymore. [Fernando] prayed that after trial on the merits, [Nave] be ordered to execute the corresponding Deed of Sale in his favor, and to pay attorney's fees, litigation expenses and damages.

[Nave] filed a Motion to Dismiss averring that she could not be ordered to execute the corresponding Deed of Sale in favor of [Fernando] based on the following grounds: (1) she was not fully apprised of the nature of the piece of paper [Fernando] handed to her for her signature on January 3, 1984. When she was informed that it was for the sale of her property in Calamba, Laguna covered by TCT No. T-3317 (27604), she immediately returned to [Fernando] the said piece of paper and at the same time repudiating the same. Her repudiation was further bolstered by the fact that when [Fernando] tendered the partial down payment to her, she refused to receive the same; and (2) she already sold the property in good faith to Rommel, Elmer, Erwin, Roller and Amanda, all surnamed Pabale [the Pabale siblings] on February 20, 1984 after the complaint was filed against

her but before she received a copy thereof. Moreover, she alleged that [Fernando] has no cause of action against her as he is suing for and in behalf of S.M. Fernando Realty Corporation who is not a party to the alleged Contract to Sell. Even assuming that said entity is the real party in interest, still, [Fernando] cannot sue in representation of the corporation there being no evidence to show that he was duly authorized to do so.

Subsequently, [the Pabale siblings] filed a Motion to Intervene alleging that they are now the land owners of the subject property. Thus, the complaint was amended to include [the Pabale siblings] as party defendants. In an Order dated April 24, 1984, the trial court denied [Nave's] Motion to Dismiss prompting her to file a Manifestation and Motion stating that she was adopting the allegations in her Motion to Dismiss in answer to [Fernando's] amended complaint.

Thereafter, [Nave] filed a Motion to Admit her Amended Answer with Counterclaim and Cross-claim praying that her husband, Atty. Vedasto Gesmundo be impleaded as her co-defendant, and including as her defense undue influence and fraud by reason of the fact that she was made to appear as widow when in fact she was very much married at the time of the transaction in issue. Despite the opposition of [Fernando] and [the Pabale siblings], the trial court admitted the aforesaid Amended Answer with Counterclaim and Cross-claim.

Still unsatisfied with her defense, [Nave] and Atty. Vedasto Gesmundo filed a Motion to Admit Second Amended Answer and Amended Reply and Cross-claim against [the Pabale siblings], this time including the fact of her incapacity to contract for being mentally deficient based on the psychological evaluation report conducted on December 2, 1985 by Dra. Virginia P. Panlasigui, M. A., a clinical psychologist. Finding the motion unmeritorious, the same was denied by the court a quo.

[Nave] filed a motion for reconsideration thereof asseverating that in Criminal Case No. 1308-85-C entitled "People vs. Nelly S. Nave" she raised therein as a defense her mental deficiency. This being a decisive factor to determine once and for all whether the contract entered into by [Nave] with respect to the subject property is null and void, the Second Amended Answer and Amended Reply and Cross-claim against [the Pabale siblings] should be admitted.

Before the motion for reconsideration could be acted upon, the proceedings in this case was suspended sometime in 1987 in view of the filing of a Petition for Guardianship of [Nave] with the Regional Trial Court, Branch 36 of Calamba, Laguna, docketed as SP No. 146-86-C with Atty. Vedasto Gesmundo as the petitioner. On June 22, 1988, a Decision was rendered in the said guardianship proceedings, the dispositive portion of which reads:

"Under the circumstances, specially since Nelly S. Nave who now resides with the Brosas spouses has categorically refused to be examined again at the National Mental Hospital, the Court is constrained to accept the Neuro-Psychiatric Evaluation report dated April 14, 1986 submitted by Dra. Nona Jean Alviso-Ramos and the supporting report dated April 20, 1987 submitted by Dr. Eduardo T. Maaba, both of the National Mental Hospital and hereby finds Nelly S. Nave an incompetent within the purview of Rule 92 of the Revised Rules of Court, a person who, by reason of age, disease, weak mind and deteriorating mental processes cannot without outside aid take care of herself and manage her properties, becoming thereby an easy prey for deceit and exploitation, said condition having become severe since the year 1980. She and her estate are hereby placed under guardianship. Atty. Leonardo C. Paner is hereby appointed as her regular guardian without need of bond, until further orders from this Court. Upon his taking his oath of office as regular guardian, Atty. Paner is ordered to participate actively in the pending cases of Nelly S. Nave with the end in view of protecting her interests from the prejudicial sales of her real properties, from the overpayment in the foreclosure made by Ms. Gilda Mendoza-Ong, and in recovering her lost jewelries and monies and other personal effects.

SO ORDERED."

Both [Fernando] and [the Pabale siblings] did not appeal therefrom, while the appeal interposed by spouses Juliano and Evangelina Brosas was dismissed by this Court for failure to pay the required docketing fees within

the reglementary period.

In the meantime, [Nave] died on December 9, 1992. On September 20, 1993, Atty. Vedasto Gesmundo, [Nave's] sole heir, she being an orphan and childless, executed an Affidavit of Self-Adjudication pertaining to his inherited properties from [Nave].

On account of such development, a motion for the dismissal of the instant case and for the issuance of a writ of execution of the Decision dated June 22, 1988 in SP No. 146-86-C (petition for guardianship) was filed by Atty. Vedasto Gesmundo on February 14, 1996 with the court a quo. [The Pabale siblings] filed their Opposition to the motion on grounds that (1) they were not made a party to the guardianship proceedings and thus cannot be bound by the Decision therein; and (2) that the validity of the Deed of Absolute Sale executed by the late [Nave] in their favor was never raised in the guardianship case.

The case was then set for an annual conference. On January 9, 1997, Atty. Vedasto Gesmundo filed a motion seeking the court's permission for his substitution for the late defendant Nelly in the instant case. Not long after the parties submitted their respective pre-trial briefs, a motion for substitution was filed by Lolita R. Alamayre (sic) [Alamayri] alleging that since the subject property was sold to her by Atty. Vedasto Gesmundo as evidenced by a Deed of Absolute Sale, she should be substituted in his stead. In refutation, Atty. Vedasto Gesmundo filed a Manifestation stating that what he executed is a Deed of Donation and not a Deed of Absolute Sale in favor of [Alamayri] and that the same was already revoked by him on March 5, 1997. Thus, the motion for substitution should be denied.

On July 29, 1997, the court a quo issued an Order declaring that it cannot make a ruling as to the conflicting claims of [Alamayri] and Atty. Vedasto Gesmundo. After the case was heard on the merits, the trial court rendered its Decision on December 2, 1997, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered as follows:

1. Declaring the handwritten Contract to Sell dated January 3, 1984 executed by Nelly S. Nave and Sesinando Fernando null and void and of no force and effect;
2. Declaring the Deed of Absolute Sale dated February 20, 1984 executed by Nelly S. Nave in favor of the [Pabale siblings] similarly null and void and of no force and effect;
3. Recognizing Ms. Lolita P. [Alamayri] as the owner of the property covered by TCT No. 111249 of the land records of Calamba, Laguna;
4. Ordering the [Pabale siblings] to execute a transfer of title over the property in favor of Ms. Lolita P. [Alamayri] in the concept of reconveyance because the sale in their favor has been declared null and void;
5. Ordering the [Pabale siblings] to surrender possession over the property to Ms. [Alamayri] and to account for its income from the time they took over possession to the time the same is turned over to Ms. Lolita [Alamayri], and thereafter pay the said income to the latter;
6. Ordering [Fernando] and the [Pabale siblings], jointly and severally, to pay Ms. [Alamayri]:
  - a. attorney's fees in the sum of P30,000.00; and
  - b. the costs.[6]

S.M. Fernando Realty Corporation, still represented by Fernando, filed an appeal with the Court of Appeals, docketed as CA-G.R. CV No. 58133, solely to question the portion of the 2 December 1997 Decision of the RTC ordering him and the Pabale siblings to jointly and severally pay Alamayri the amount of P30,000.00 as attorney's

fees.

The Pabale siblings intervened as appellants in CA-G.R. CV No. 58133 averring that the RTC erred in declaring in its 2 December 1997 Decision that the Deed of Absolute Sale dated 20 February 1984 executed by Nave in their favor was null and void on the ground that Nave was found incompetent since the year 1980.

The Court of Appeals, in its Decision, dated 10 April 2001, granted the appeals of S.M. Fernando Realty Corporation and the Pabale siblings. It ruled thus:

WHEREFORE, premises considered, the appeal filed by S. M. Fernando Realty Corporation, represented by its President, Sesinando M. Fernando as well as the appeal interposed by Rommel, Elmer, Erwin, Roller and Amanda, all surnamed Pabale, are hereby GRANTED. The Decision of the Regional Trial Court of Pasay City, Branch 119 in Civil Case No. 675-84-C is hereby REVERSED and SET ASIDE and a new one rendered upholding the VALIDITY of the Deed of Absolute Sale dated February 20, 1984.

No pronouncements as to costs.[7]

Alamayri sought reconsideration of the afore-quoted Decision of the appellate court, invoking the Decision,[8] dated 22 June 1988, of the RTC in the guardianship proceedings, docketed as SP. PROC. No. 146-86-C, which found Nave incompetent, her condition becoming severe since 1980; and thus appointed Atty. Leonardo C. Paner as her guardian. Said Decision already became final and executory when no one appealed therefrom. Alamayri argued that since Nave was already judicially determined to be an incompetent since 1980, then all contracts she subsequently entered into should be declared null and void, including the Deed of Sale, dated 20 February 1984, which she executed over the subject property in favor of the Pabale siblings.

According to Alamayri, the Pabale siblings should be bound by the findings of the RTC in its 22 June 1988 Decision in SP. PROC. No. 146-86-C, having participated in the said guardianship proceedings through their father Jose Pabale. She pointed out that the RTC explicitly named in its orders Jose Pabale as among those present during the hearings held on 30 October 1987 and 19 November 1987 in SP. PROC. No. 146-86-C. Alamayri thus filed on 21 November 2001 a Motion to Schedule Hearing to Mark Exhibits in Evidence so she could mark and submit as evidence certain documents to establish that the Pabale siblings are indeed the children of Jose Pabale.

Atty. Gesmundo, Nave's surviving spouse, likewise filed his own Motion for Reconsideration of the 10 April 2001 Decision of the Court of Appeals in CA-G.R. CV No. 58133, asserting Nave's incompetence since 1980 as found by the RTC in SP. PROC. No. 146-86-C, and his right to the subject property as owner upon Nave's death in accordance with the laws of succession. It must be remembered that Atty. Gesmundo disputed before the RTC the supposed transfer of his rights to the subject property to Alamayri, but the court a quo refrained from ruling thereon.

In a Resolution, dated 19 December 2001, the Court of Appeals denied for lack of merit the Motions for Reconsideration of Alamayri and Atty. Gesmundo.

Hence, Alamayri comes before this Court via the present Petition for Review on Certiorari under Rule 45 of the Rules of Court, with the following assignment of errors:

I

THE COURT OF APPEALS ERRED IN HOLDING THAT THE FINDING THAT NELLY S. NAVE WAS INCOMPETENT IN SPECIAL PROCEEDING NO. 146-86-C ON JUNE 22, 1988 CANNOT RETROACT TO AFFECT THE VALIDITY OF THE DEED OF SALE SHE EXECUTED ON FEBRUARY 20, 1984 IN FAVOR OF RESPONDENTS PABALES.

## II

THE COURT OF APPEALS ERRED IN HOLDING THAT THE DECISION IN SPECIAL PROCEEDING NO. 146-86-C DATED JUNE 22, 1988 IS NOT BINDING ON RESPONDENTS PABALES.

## III

THE COURT OF APPEALS ERRED IN DENYING PETITIONER'S MOTION TO SCHEDULE HEARING TO MARK DOCUMENTARY EXHIBITS IN EVIDENCE TO ESTABLISH THE IDENTITY OF JOSE PABALE AS THE FATHER OF RESPONDENTS PABALES.[9]

It is Alamayri's position that given the final and executory Decision, dated 22 June 1988, of the RTC in SP. PROC. No. 146-86-C finding Nave incompetent since 1980, then the same fact may no longer be re-litigated in Civil Case No. 675-84-C, based on the doctrine of *res judicata*, more particularly, the rule on conclusiveness of judgment.

This Court is not persuaded.

*Res judicata* literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." *Res judicata* lays the rule that an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.[10]

It is espoused in the Rules of Court, under paragraphs (b) and (c) of Section 47, Rule 39, which read:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

The doctrine of *res judicata* thus lays down two main rules which may be stated as follows: (1) The judgment or decree of a court of competent jurisdiction on the merits concludes the parties and their privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action either before the same or any other tribunal; and (2) Any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which a judgment or decree is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claims or demands, purposes, or subject matters of the two suits are the same. These two main rules mark the distinction between the principles governing the two typical cases in which a judgment may operate as evidence.[11] In speaking of these cases, the first general rule above stated, and which corresponds to the afore-quoted paragraph (b) of Section 47, Rule 39 of the Rules of Court, is referred to as "bar by former judgment"; while the second general rule, which is embodied in paragraph (c) of the same section and rule, is known as "conclusiveness of judgment."

The Resolution of this Court in *Calalang v. Register of Deeds* provides the following enlightening discourse on conclusiveness of judgment:

The doctrine *res judicata* actually embraces two different concepts: (1) bar by former judgment and (b) conclusiveness of judgment.

The second concept -- conclusiveness of judgment -- states that a fact or question which was in issue in a former suit and was there judicially passed upon and determined by a court of competent jurisdiction, is conclusively settled by the judgment therein as far as the parties to that action and persons in privity with them are concerned and cannot be again litigated in any future action between such parties or their privies, in the same court or any other court of concurrent jurisdiction on either the same or different cause of action, while the judgment remains unreversed by proper authority. It has been held that in order that a judgment in one action can be conclusive as to a particular matter in another action between the same parties or their privies, it is essential that the issue be identical. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit (*Nabus vs. Court of Appeals*, 193 SCRA 732 [1991]). Identity of cause of action is not required but merely identity of issues.

Justice Feliciano, in *Smith Bell & Company (Phils.), Inc. vs. Court of Appeals* (197 SCRA 201, 210 [1991]), reiterated *Lopez vs. Reyes* (76 SCRA 179 [1977]) in regard to the distinction between bar by former judgment which bars the prosecution of a second action upon the same claim, demand, or cause of action, and conclusiveness of judgment which bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.

The general rule precluding the relitigation of material facts or questions which were in issue and adjudicated in former action are commonly applied to all matters essentially connected with the subject matter of the litigation. Thus, it extends to questions necessarily implied in the final judgment, although no specific finding may have been made in reference thereto and although such matters were directly referred to in the pleadings and were not actually or formally presented. Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself.[12]

Another case, *Oropeza Marketing Corporation v. Allied Banking Corporation*, further differentiated between the two rules of *res judicata*, as follows:

There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or other tribunal.

But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is the concept of *res judicata* known as "conclusiveness of judgment." Stated differently, any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[13]

In sum, conclusiveness of judgment bars the re-litigation in a second case of a fact or question already settled in a

previous case. The second case, however, may still proceed provided that it will no longer touch on the same fact or question adjudged in the first case. Conclusiveness of judgment requires only the identity of issues and parties, but not of causes of action.

Contrary to Alamayri's assertion, conclusiveness of judgment has no application to the instant Petition since there is no identity of parties and issues between SP. PROC. No. 146-86-C and Civil Case No. 675-84-C.

#### No identity of parties

SP. PROC. No. 146-86-C was a petition filed with the RTC by Atty. Gesmundo for the appointment of a guardian over the person and estate of his late wife Nave alleging her incompetence.

A guardian may be appointed by the RTC over the person and estate of a minor or an incompetent, the latter being described as a person "suffering the penalty of civil interdiction or who are hospitalized lepers, prodigals, deaf and dumb who are unable to read and write, those who are of unsound mind, even though they have lucid intervals, and persons not being of unsound mind, but by reason of age, disease, weak mind, and other similar causes, cannot, without outside aid, take care of themselves and manage their property, becoming thereby an easy prey for deceit and exploitation." [14]

Rule 93 of the Rules of Court governs the proceedings for the appointment of a guardian, to wit:

#### Rule 93

#### APPOINTMENT OF GUARDIANS

SECTION 1. Who may petition for appointment of guardian for resident. - Any relative, friend, or other person on behalf of a resident minor or incompetent who has no parent or lawful guardian, or the minor himself if fourteen years of age or over, may petition the court having jurisdiction for the appointment of a general guardian for the person or estate, or both, of such minor or incompetent. An officer of the Federal Administration of the United States in the Philippines may also file a petition in favor of a ward thereof, and the Director of Health, in favor of an insane person who should be hospitalized, or in favor of an isolated leper.

SEC. 2. Contents of petition. - A petition for the appointment of a general guardian must show, so far as known to the petitioner:

- (a) The jurisdictional facts;
- (b) The minority or incompetency rendering the appointment necessary or convenient;
- (c) The names, ages, and residences of the relatives of the minor or incompetent, and of the persons having him in their care;
- (d) The probable value and character of his estate;
- (e) The name of the person for whom letters of guardianship are prayed.

The petition shall be verified; but no defect in the petition or verification shall render void the issuance of letters of guardianship.

SEC. 3. Court to set time for hearing. Notice thereof. - When a petition for the appointment of a general guardian is filed, the court shall fix a time and place for hearing the same, and shall cause reasonable notice thereof to be given to the persons mentioned in the petition residing in the province, including the minor if above 14 years of age or the incompetent himself, and may direct other general or special notice thereof to be given.

SEC. 4. Opposition to petition. - Any interested person may, by filing a written opposition, contest the petition on the ground of majority of the alleged minor, competency of the alleged incompetent, or the unsuitability of the person for whom letters are prayed, and may pray that the petition be dismissed, or that letters of guardianship issue to himself, or to any suitable person named in the opposition.

SEC. 5. Hearing and order for letters to issue. - At the hearing of the petition the alleged incompetent must be present if able to attend, and it must be shown that the required notice has been given. Thereupon the court shall hear the evidence of the parties in support of their respective allegations, and, if the person in question is a minor or incompetent it shall appoint a suitable guardian of his person or estate, or both, with the powers and duties hereinafter specified.

x x x x

SEC. 8. Service of judgment. - Final orders or judgments under this rule shall be served upon the civil registrar of the municipality or city where the minor or incompetent person resides or where his property or part thereof is situated.

A petition for appointment of a guardian is a special proceeding, without the usual parties, i.e., petitioner versus respondent, in an ordinary civil case. Accordingly, SP. PROC. No. 146-86-C bears the title: In re: Guardianship of Nelly S. Nave for Incompetency, Verdasto Gesmundo y Banayo, petitioner, with no named respondent/s.

Sections 2 and 3 of Rule 93 of the Rules of Court, though, require that the petition contain the names, ages, and residences of relatives of the supposed minor or incompetent and those having him in their care, so that those residing within the same province as the minor or incompetent can be notified of the time and place of the hearing on the petition.

The objectives of an RTC hearing a petition for appointment of a guardian under Rule 93 of the Rules of Court is to determine, first, whether a person is indeed a minor or an incompetent who has no capacity to care for himself and/or his properties; and, second, who is most qualified to be appointed as his guardian. The rules reasonably assume that the people who best could help the trial court settle such issues would be those who are closest to and most familiar with the supposed minor or incompetent, namely, his relatives living within the same province and/or the persons caring for him.

It is significant to note that the rules do not necessitate that creditors of the minor or incompetent be likewise identified and notified. The reason is simple: because their presence is not essential to the proceedings for appointment of a guardian. It is almost a given, and understandably so, that they will only insist that the supposed minor or incompetent is actually capacitated to enter into contracts, so as to preserve the validity of said contracts and keep the supposed minor or incompetent obligated to comply therewith.

Hence, it cannot be presumed that the Pabale siblings were given notice and actually took part in SP. PROC. No. 146-86-C. They are not Nave's relatives, nor are they the ones caring for her. Although the rules allow the RTC to direct the giving of other general or special notices of the hearings on the petition for appointment of a guardian, it was not established that the RTC actually did so in SP. PROC. No. 146-86-C.

Alamayri's allegation that the Pabale siblings participated in SP. PROC. No. 146-86-C rests on two Orders, dated 30 October 1987<sup>[15]</sup> and 19 November 1987,<sup>[16]</sup> issued by the RTC in SP. PROC. No. 146-86-C, expressly mentioning the presence of a Jose Pabale, who was supposedly the father of the Pabale siblings, during the hearings held on the same dates. However, the said Orders by themselves cannot confirm that Jose Pabale was indeed the father of the Pabale siblings and that he was authorized by his children to appear in the said hearings on their behalf.

Alamayri decries that she was not allowed by the Court of Appeals to submit and mark additional evidence to prove that Jose Pabale was the father of the Pabale siblings.

It is true that the Court of Appeals has the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. In general, however, the Court of Appeals conducts hearings and receives evidence prior to the submission of the case for judgment.[17] It must be pointed out that, in this case, Alamayri filed her Motion to Schedule Hearing to Mark Exhibits in Evidence on 21 November 2001. She thus sought to submit additional evidence as to the identity of Jose Pabale, not only after CA-G.R. CV No. 58133 had been submitted for judgment, but after the Court of Appeals had already promulgated its Decision in said case on 10 April 2001.

The parties must diligently and conscientiously present all arguments and available evidences in support of their respective positions to the court before the case is deemed submitted for judgment. Only under exceptional circumstances may the court receive new evidence after having rendered judgment;[18] otherwise, its judgment may never attain finality since the parties may continually refute the findings therein with further evidence. Alamayri failed to provide any explanation why she did not present her evidence earlier. Merely invoking that the ends of justice would have been best served if she was allowed to present additional evidence is not sufficient to justify deviation from the general rules of procedure. Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[19] Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only to proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[20]

Moreover, contrary to Alamayri's assertion, the Court of Appeals did not deny her Motion to Schedule Hearing to Mark Exhibits in Evidence merely for being late. In its Resolution, dated 19 December 2001, the Court of Appeals also denied the said motion on the following grounds:

While it is now alleged, for the first time, that the [herein respondents Pabale siblings] participated in the guardianship proceedings considering that the Jose Pabale mentioned therein is their late father, [herein petitioner Alamayri] submitting herein documentary evidence to prove their filiation, even though admitted in evidence at this late stage, cannot bind [the Pabale siblings] as verily, notice to their father is not notice to them there being no allegation to the effect that he represented them before the Calamba Court.[21]

As the appellate court reasoned, even if the evidence Alamayri wanted to submit do prove that the Jose Pabale who attended the RTC hearings on 30 October 1987 and 19 November 1987 in SP. PROC. No. 146-86-C was the father of the Pabale siblings, they would still not confirm his authority to represent his children in the said proceedings. Worth stressing is the fact that Jose Pabale was not at all a party to the Deed of Sale dated 20 February 1984 over the subject property, which was executed by Nave in favor of the Pabale siblings. Without proper authority, Jose Pabale's presence at the hearings in SP. PROC. No. 146-86-C should not bind his children to the outcome of said proceedings or affect their right to the subject property.

Since it was not established that the Pabale siblings participated in SP. PROC. No. 146-86-C, then any finding therein should not bind them in Civil Case No. 675-84-C.

### No identity of issues

Neither is there identity of issues between SP. PROC. No. 146-86-C and Civil Case No. 675-84-C that may bar the latter, by conclusiveness of judgment, from ruling on Nave's competency in 1984, when she executed the Deed of Sale over the subject property in favor the Pabale siblings.

In SP. PROC. No. 146-86-C, the main issue was whether Nave was incompetent at the time of filing of the petition with the RTC in 1986, thus, requiring the appointment of a guardian over her person and estate.

In the cross-claim of Nave and Atty. Gesmundo against the Pabale siblings in Civil Case No. 675-84-C, the issue was whether Nave was an incompetent when she executed a Deed of Sale of the subject property in favor of the Pabale siblings on 20 February 1984, hence, rendering the said sale void.

While both cases involve a determination of Nave's incompetency, it must be established at two separate times, one in 1984 and the other in 1986. A finding that she was incompetent in 1986 does not automatically mean that she was so in 1984. In *Carillo v. Jaojoco*,<sup>[22]</sup> the Court ruled that despite the fact that the seller was declared mentally incapacitated by the trial court only nine days after the execution of the contract of sale, it does not prove that she was so when she executed the contract. Hence, the significance of the two-year gap herein cannot be gainsaid since Nave's mental condition in 1986 may vastly differ from that of 1984 given the intervening period.

Capacity to act is supposed to attach to a person who has not previously been declared incapable, and such capacity is presumed to continue so long as the contrary be not proved; that is, that at the moment of his acting he was incapable, crazy, insane, or out of his mind.<sup>[23]</sup> The burden of proving incapacity to enter into contractual relations rests upon the person who alleges it; if no sufficient proof to this effect is presented, capacity will be presumed.<sup>[24]</sup>

Nave was examined and diagnosed by doctors to be mentally incapacitated only in 1986, when the RTC started hearing SP. PROC. No. 146-86-C; and she was not judicially declared an incompetent until 22 June 1988 when a Decision in said case was rendered by the RTC, resulting in the appointment of Atty. Leonardo C. Paner as her guardian. Thus, prior to 1986, Nave is still presumed to be capacitated and competent to enter into contracts such as the Deed of Sale over the subject property, which she executed in favor of the Pabale siblings on 20 February 1984. The burden of proving otherwise falls upon Alamayri, which she dismally failed to do, having relied entirely on the 22 June 1988 Decision of the RTC in SP. PROC. No. 146-86-C.

Alamayri capitalizes on the declaration of the RTC in its Decision dated 22 June 1988 in SP. PROC. No. 146-86-C on Nave's condition "having become severe since the year 1980."<sup>[25]</sup> But there is no basis for such a declaration. The medical reports extensively quoted in said Decision, prepared by: (1) Dr. Nona Jean Alviso-Ramos, dated 14 April 1986,<sup>[26]</sup> and (2) by Dr. Eduardo T. Maaba, dated 20 April 1987,<sup>[27]</sup> both stated that upon their examination, Nave was suffering from "organic brain syndrome secondary to cerebral arteriosclerosis with psychotic episodes," which impaired her judgment. There was nothing in the said medical reports, however, which may shed light on when Nave began to suffer from said mental condition. All they said was that it existed at the time Nave was examined in 1986, and again in 1987. Even the RTC judge was only able to observe Nave, which made him realize that her mind was very impressionable and capable of being manipulated, on the occasions when Nave visited the court from 1987 to 1988. Hence, for this Court, the RTC Decision dated 22 June 1988 in SP. PROC. No. 146-86-C may be conclusive as to Nave's incompetency from 1986 onwards, but not as to her incompetency in 1984. And other than invoking the 22 June 1988 Decision of the RTC in SP. PROC. No. 146-86-C, Alamayri did not bother to establish with her own evidence that Nave was mentally incapacitated when she executed the 20 February 1984 Deed of Sale over the subject property in favor of the Pabale siblings, so as to render the said deed void.

All told, there being no identity of parties and issues between SP. PROC. No. 146-86-C and Civil Case No. 675-84-C, the 22 June 1988 Decision in the former on Nave's incompetency by the year 1986 should not bar, by conclusiveness of judgment, a finding in the latter case that Nave still had capacity and was competent when she executed on 20 February 1984 the Deed of Sale over the subject property in favor of the Pabale siblings. Therefore, the Court of Appeals did not commit any error when it upheld the validity of the 20 February 1984 Deed of Sale.

WHEREFORE, premises considered, the instant Petition for Review is hereby DENIED. The Decision, dated 10 April 2001, of the Court of Appeals in CA-G.R. CV No. 58133, is hereby AFFIRMED in toto. Costs against the petitioner Lolita R. Alamayri.

SO ORDERED.

Puno, C.J., Ynares-Santiago, (Chairperson), Nachura, and Reyes, JJ., concur.

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\* In place of Associate Justice Ma. Alicia Austria-Martinez, who was the presiding judge of the Regional Trial Court of Calamba, Laguna, Branch 36, who heard the early stages of Civil Case No. 675-84-C.

[1] Rollo, pp. 9-37.

[2] Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Conrado M. Vasquez, Jr. and Eliezer R. de los Santos, concurring; id. at 39-46.

[3] Id. at 47-51.

[4] Penned by Judge Salvador P. de Guzman, Jr.; id. at 67-77.

[5] It must be noted that Civil Case No. 675-84-C was originally instituted before the Regional Trial Court (RTC) of Calamba, Laguna, Branch 36. All cases involving Nelly S. Nave (Nave cases) were then assigned to the same Calamba RTC, Branch 36, to which Judge Salvador P. de Guzman was appointed effective 3 February 1987. Judge de Guzman was eventually detailed as presiding judge of the Makati RTC, Branch 142; but would be temporarily detailed at the Pasay RTC, Branch 119. Pursuant to a petition filed by Atty. Vedasto Gesmundo, docketed as Administrative Matter No. 96-9-343-RTC, the Supreme Court assigned the Nave cases to Judge de Guzman; ordered the executive judge of the Calamba RTC to send the records of the Nave cases to the Pasay RTC, Branch 119; and directed Judge de Guzman to act on the Nave cases. (Rollo, pp. 69-70)

[6] Id. at 39-43.

[7] Id. at 46.

[8] Penned by Judge Salvador P. De Guzman, Jr.; id. at 52-59.

[9] Id. at 18.

[10] Oropeza Marketing Corporation v. Allied Banking Corporation, 441 Phil. 551, 563 (2002).

[11] Vda. de Cruz v. Carriaga, Jr., G.R. No. 75109-10, 28 June 1989, 174 SCRA 330, 338.

[12] G.R. No. 76265, 11 March 1994, 231 SCRA 88, 99-100.

[13] Supra note 10 at 564.

[14] Rule 92, Section 1 of the Rules of Court.

[15] Rollo, p. 60.

[16] *Id.* at 61.

[17] Rule 51, Section 1 of the Rules of Court reads:

SECTION 1. When case deemed submitted for judgment. - A case shall be deemed submitted for judgment:

A. In ordinary appeals. -

1) Where no hearing on the merits of the main case is held, upon the filing of the last pleading, brief, or memorandum required by the Rules or by the court itself, or the expiration of the period for its filing.

2) Where such a hearing is held, upon its termination or upon the filing of the last pleading or memorandum as may be required or permitted to be filed by the court, or the expiration of the period for its filing.

B. In original actions and petitions for review. -

1) Where no comment is filed, upon the expiration of the period to comment.

2) Where no hearing is held, upon the filing of the last pleading required or permitted to be filed by the court, or the expiration of the period for its filing.

3) Where a hearing on the merits of the main case is held, upon its termination or upon the filing of the last pleading or memorandum as may be required or permitted to be filed by the court, or the expiration of the period for its filing.

[18] Newly Discovered Evidence. - In order that a new trial may be granted on the ground of newly discovered evidence, but the following requisites must be present: (a) that the evidence was discovered after the trial; (b) that such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence, and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if admitted, it will probably change the judgment. Accordingly, where the evidence was known to the movant and was obtainable at the trial, or if not known, it is not satisfactorily shown why it was not available at the trial, or that due diligence was not employed in securing it, the motion for new trial should be denied. So, also, where the evidence consists merely in improbable or unreasonable testimonies of witnesses, or is merely cumulative or corroborative, and will not thus alter the results, the motion will be denied. Forgotten evidence is not a ground for new trial. [*People v. Evaristo*, 121 Phil. 186, 200 (1965)].

[19] *Clavecilla v. Quitain*, G.R. No. 147989, 20 February 2006, 20 February 2006, 482 SCRA 623, 631.

[20] *Garbo v. Court of Appeals*, 327 Phil. 780, 784 (1996).

[21] Rollo, p. 50.

[22] 46 Phil. 957, 960 (1924).

[23] *Standard Oil Company of New York v. Arenas*, 19 Phil. 363, 368 (1911).

[24] *Catalan v. Basa*, G.R. No. 159567, 31 July 2007, 528 SCRA 645, 654.

[25] Rollo, p. 58.

[26] *Id.* at 53-54.

[27] *Id.* at 54-55.

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