

**JOSEPHINE PAHAMOTANG AND ELEANOR PAHAMOTANG-BASA,
PETITIONERS, VS. THE PHILIPPINE NATIONAL BANK (PNB) AND THE
HEIRS OF ARTURO ARGUNA, RESPONDENTS.**

G.R. NO. 156403. March 31, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Assailed and sought to be set aside in this appeal by way of a petition for review on certiorari under Rule 45 of the Rules of Court are the following issuances of the Court of Appeals in CA-G.R. CV No. 65290, to wit:

- Decision dated March 20, 2002,[1] granting the appeal and reversing the appealed August 7, 1998 decision of the Regional Trial Court at Davao City; and
- Resolution dated November 20, 2002, denying herein petitioners' motion for reconsideration.[2]

The factual background:

On July 1, 1972, Melitona Pahamotang died. She was survived by her husband Agustin Pahamotang, and their eight (8) children, namely: Ana, Genoveva, Isabelita, Corazon, Susana, Concepcion and herein petitioners Josephine and Eleonor, all surnamed Pahamotang.

On September 15, 1972, Agustin filed with the then Court of First Instance of Davao City a petition for issuance of letters administration over the estate of his deceased wife. The petition, docketed as Special Case No. 1792, was raffled to Branch VI of said court, hereinafter referred to as the intestate court.

In his petition, Agustin identified petitioners Josephine and Eleonor as among the heirs of his deceased spouse. It appears that Agustin was appointed petitioners' judicial guardian in an earlier case - Special Civil Case No. 1785 – also of the CFI of Davao City, Branch VI.

On December 7, 1972, the intestate court issued an order granting Agustin's petition.

On July 6, 1973, respondent Philippine National Bank (PNB) and Agustin executed an Amendment of Real and Chattel Mortgages with Assumption of Obligation. It appears that earlier, or on December 14, 1972, the intestate court approved the mortgage to PNB of certain assets of the estate to secure an obligation in the amount of P570,000.00. Agustin signed the document in behalf of (1) the estate of Melitona; (2) daughters Ana and Corazon; and (3) a logging company named Pahamotang Logging Enterprises, Inc. (PLEI) which appeared to have an interest in the properties of the estate. Offered as securities are twelve (12) parcels of registered land, ten (10) of which are covered by transfer certificates of title (TCT) No. 2431, 7443, 8035, 11465, 21132, 4038, 24327, 24326, 31226 and 37786, all of the Registry of Deeds of Davao City, while the remaining two (2) parcels by TCTs No. (3918) 1081 and (T-2947) 562 of the Registry of Deeds of Davao del Norte and Davao del Sur, respectively.

On July 16, 1973, Agustin filed with the intestate court a Petition for Authority To Increase Mortgage on the

above mentioned properties of the estate.

In an Order dated July 18, 1973, the intestate court granted said petition.

On October 5, 1974, Agustin again filed with the intestate court another petition, Petition for Declaration of Heirs And For Authority To Increase Indebtedness, whereunder he alleged the necessity for an additional loan from PNB to capitalize the business of the estate, the additional loan to be secured by additional collateral in the form of a parcel of land covered by Original Certificate of Title (OCT) No. P-7131 registered in the name of Heirs of Melitona Pahamotang. In the same petition, Agustin prayed the intestate court to declare him and Ana, Genoveva, Isabelita, Corazon, Susana, Concepcion and herein petitioners Josephine and Eleonor as the only heirs of Melitona.

In an Order of October 19, 1974, the intestate court granted Agustin authority to seek additional loan from PNB in an amount not exceeding P5,000,000.00 to be secured by the land covered by OCT No. P-7131 of the Registry of Deeds of Davao Oriental, but denied Agustin's prayer for declaration of heirs for being premature.

On October 22, 1974, a real estate mortgage contract for P4,500,000.00 was executed by PNB and Agustin in his several capacities as: (1) administrator of the estate of his late wife; (2) general manager of PLEI; (3) attorney-in-fact of spouses Isabelita Pahamotang and Orlando Ruiz, and spouses Susana Pahamotang and Octavio Zamora; and (4) guardian of daughters Concepcion and Genoveva and petitioners Josephine and Eleonor. Offered as securities for the additional loan are three (3) parcels of registered land covered by TCTs No. T-21132, 37786 and 43264.

On February 19, 1980, Agustin filed with the intestate court a Petition (Request for Judicial Authority To Sell Certain Properties of the Estate), therein praying for authority to sell to Arturo Arguna the properties of the estate covered by TCTs No. 7443, 8035, 11465, 24326 and 31226 of the Registry of Deeds of Davao City, and also TCT No. (T-3918) T-1081 of the Registry of Deeds of Davao del Norte.

On February 27, 1980, Agustin yet filed with the intestate court another petition, this time a Petition To Sell the Properties of the Estate, more specifically referring to the property covered by OCT No. P-7131, in favor of PLEI.

In separate Orders both dated February 25, 1980, the intestate court granted Agustin authority to sell estate properties, in which orders the court also required all the heirs of Melitona to give their express conformity to the disposal of the subject properties of the estate and to sign the deed of sale to be submitted to the same court. Strangely, the two (2) orders were dated two (2) days earlier than February 27, 1980, the day Agustin supposedly filed his petition.

In a motion for reconsideration, Agustin prayed the intestate court for the amendment of one of its February 25, 1980 Orders by canceling the requirement of express conformity of the heirs as a condition for the disposal of the aforesaid properties.

In its Order of January 7, 1981, the intestate court granted Agustin's prayer.

Hence, on March 4, 1981, estate properties covered by TCTs No. 7443, 11465, 24326, 31226, 8035, (T-2947) 662 and (T-3918) T-1081, were sold to respondent Arturo Arguna, while the property covered by OCT No. P-7131 was sold to PLEI. Consequent to such sales, vendees Arguna and PLEI filed with the intestate court a motion for the approval of the corresponding deeds of sale in their favor. And, in an Order dated March 9, 1981, the intestate court granted the motion.

Thereafter, three (3) daughters of Agustin, namely, Ana, Isabelita and Corazon petitioned the intestate court for the payment of their respective shares from the sales of estate properties, which was granted by the intestate court.

Meanwhile, the obligation secured by mortgages on the subject properties of the estate was never satisfied. Hence, on the basis of the real estate mortgage contracts dated July 6, 1973 and October 22, 1974, mortgagor PNB filed a petition for the extrajudicial foreclosure of the mortgage.

Petitioner Josephine filed a motion with the intestate court for the issuance of an order restraining PNB from extrajudicially foreclosing the mortgage. In its Order dated August 19, 1983, the intestate court denied Josephine's motion. Hence, PNB was able to foreclose the mortgage in its favor.

Petitioners Josephine and Eleanor, together with their sister Susana Pahamatong-Zamora, filed motions with the intestate court to set aside its Orders of December 14, 1972 [Note: the order dated July 18, 1973 contained reference to an order dated December 14, 1972 approving the mortgage to PNB of certain properties of the estate], July 18, 1973, October 19, 1974 and February 25, 1980.

In an Order dated September 5, 1983, the intestate court denied the motions, explaining:

"Carefully analyzing the aforesaid motions and the grounds relied upon, as well as the opposition thereto, the Court holds that the supposed defects and/or irregularities complained of are mainly formal or procedural and not substantial, for which reason, the Court is not persuaded to still disturb all the orders, especially that interests of the parties to the various contracts already authorized or approved by the Orders sought to be set aside will be adversely affected".[3]

Such was the state of things when, on March 20, 1984, in the Regional Trial Court at Davao City, petitioners Josephine and Eleanor, together with their sister Susana, filed their complaint for Nullification of Mortgage Contracts and Foreclosure Proceedings and Damages against Agustin, PNB, Arturo Arguna, PLEI, the Provincial Sheriff of Mati, Davao Oriental, the Provincial Sheriff of Tagum, Davao del Norte and the City Sheriff of Davao City. In their complaint, docketed as Civil Case No. 16,802 which was raffled to Branch 12 of the court, the sisters Josephine, Eleanor and Susana prayed for the following reliefs:

- "1.) The real estate mortgage contracts of July 6, 1973 and that of October 2, 1974, executed by and between defendants PNB AND PLEI be declared null and void ab initio;
- 2.) Declaring the foreclosure proceedings conducted by defendants-sheriffs, insofar as they pertain to the assets of the estate of Melitona L. Pahamotang, including the auction sales thereto, and any and all proceedings taken thereunder, as null and void ab initio;
- 3.) Declaring the Deed of Absolute Sale, Doc. No. 473; Page No.96; Book No.VIII, Series of 1981 of the Notarial Registry of Paquito G. Balasabas of Davao City evidencing the sale/transfer of the real properties described therein to defendant Arturo S. Arguna, as null and void ab initio;
- 4.) Declaring the Deed of Absolute Sale, Doc. No. 474; Page No. 96, Book No. VIII, series of 1981 of the Notarial Registry of Paquito G. Balasabas of Davao City, evidencing the sale/transfer of real properties to PLEI as null and void ab initio;
- 5.) For defendants to pay plaintiffs moral damages in such sums as may be found to be just and equitable under the premises;
- 6.) For defendants to pay plaintiffs, jointly and severally, the expenses incurred in connection with this litigation;
- 7.) For defendants to pay plaintiffs, jointly and severally attorney's fees in an amount to be proven during the trial;
- 8.) For defendants to pay the costs of the suit".[4]

PNB moved to dismiss the complaint, which the trial court granted in its Order of January 11, 1985.

However, upon motion of the plaintiffs, the trial court reversed itself and ordered defendant PNB to file its answer.

Defendant PNB did file its answer with counterclaim, accompanied by a cross-claim against co-defendants Agustin and PLEI.

During the ensuing pre-trial conference, the parties submitted the following issues for the resolution of the trial court, to wit:

- "1. Whether or not the Real Estate Mortgage contracts executed on July 6, 1973 and October 2, 1974 (sic) by and between defendants Pahamotang Logging Enterprises, Inc. and the Philippine National Bank are null and void?
2. Whether or not the foreclosure proceedings conducted by defendants-Sheriffs, insofar as they affect the assets of the Estate of Melitona Pahamotang, including the public auction sales thereof, are null and void?
3. Whether or not the Deed of Absolute Sale in favor of defendant Arturo Arguna entered as Doc. No. 473; Page No. 96; Book No. VIII, series of 1981 of the Notarial Register of Notary Public Paquito Balasabas is null and void?
4. Whether or not the Deed of Absolute Sale in favor of defendant Pahamotang Logging Enterprises, Inc. entered as Doc. No. 474; Page No. 96; Book No. VIII, series of 1981 of the Notarial Register of Notary Public Paquito Balasabas is null and void?
5. On defendant PNB's cross-claim, in the event the mortgage contracts and the foreclosure proceedings are declared null and void, whether or not defendant Pahamotang Logging Enterprises, Inc. is liable to the PNB?
6. Whether or not the defendants are liable to the plaintiffs for damages?
7. Whether or not the plaintiffs are liable to the defendants for damages"?[5]

With defendant Arturo Arguna's death on October 31, 1990, the trial court ordered his substitution by his heirs: Heirs of Arturo Arguna.

In a Decision dated August 7, 1998, the trial court in effect rendered judgment for the plaintiffs. We quote the decision's dispositive portion:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

1. Declaring the Mortgage Contracts of July 6, 1973 and October 22, 1974, as well as the foreclosure proceedings, void insofar as it affects the share, interests and property rights of the plaintiffs in the assets of the estate of Melitona Pahamotang, but valid with respect to the other parties;
2. Declaring the deeds of sale in favor of defendants Pahamotang Logging Enterprises, Inc. and Arturo Arguna as void insofar as it affects the shares, interests and property rights of herein plaintiffs in the assets of the estate of Melitona Pahamotang but valid with respect to the other parties to the said deeds of sale.
3. Denying all the other claims of the parties for lack of strong, convincing and competent evidence.

No pronouncement as to costs.

SO ORDERED".[6]

From the aforementioned decision of the trial court, PNB, PLEI and the Heirs of Arturo Arguna went on appeal to

the Court of Appeals in CA-G.R. CV No. 65290. While the appeal was pending, the CA granted the motion of Susana Pahamatong-Zamora to withdraw from the case.

As stated at the threshold hereof, the Court of Appeals, in its Decision dated March 20, 2002,[7] reversed the appealed decision of the trial court and dismissed the petitioners' complaint in Civil Case No. 16,802, thus:

WHEREFORE, the appeal is hereby GRANTED. The assailed August 07, 1998 Decision rendered by the Regional Trial Court of Davao City, Branch 12, is hereby REVERSED and SET ASIDE and a new one is entered DISMISSING the complaint filed in Civil Case No. 16,802.

SO ORDERED.

The appellate court ruled that petitioners, while ostensibly questioning the validity of the contracts of mortgage and sale entered into by their father Agustin, were essentially attacking collaterally the validity of the four (4) orders of the intestate court in Special Case No. 1792, namely:

- Order dated July 18, 1973, granting Agustin's Petition for Authority to Increase Mortgage;
- Order dated October 19, 1974, denying Agustin's petition for declaration of heirs but giving him authority to seek additional loan from PNB;
- Order dated February 25, 1980, giving Agustin permission to sell properties of the estate to Arturo Arguna and PLEI; and
- Order dated January 7, 1981, canceling the requirement of express conformity by the heirs as a condition for the disposal of estate properties.

To the appellate court, petitioners committed a fatal error of mounting a collateral attack on the foregoing orders instead of initiating a direct action to annul them. Explains the Court of Appeals:

"A null and void judgment is susceptible to direct as well as collateral attack. A direct attack against a judgment is made through an action or proceeding the main object of which is to annul, set aside, or enjoin the enforcement of such judgment, if not carried into effect; or if the property has been disposed of, the aggrieved party may sue for recovery. A collateral attack is made when, in another action to obtain a different relief, an attack on the judgment is made as an incident in said action. This is proper only when the judgment, on its fact, is null and void, as where it is patent that the court which rendered such judgment has no jurisdiction. A judgment void on its face may also be attacked directly.

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Perusing the above arguments and comparing them with the settled ruling, the plaintiffs-appellees [now petitioners], we believe had availed themselves of the wrong remedy before the trial court. It is clear that they are collaterally attacking the various orders of the intestate court in an action for the nullification of the subject mortgages, and foreclosure proceedings in favor of PNB, and the deeds of sale in favor of Arguna. Most of their arguments stemmed from their allegations that the various orders of the intestate court were issued without a notification given to them. An examination, however, of the July 18, 1973 order shows that the heirs of Melitona have knowledge of the petition to increase mortgage filed by Agustin, thus:

'The petitioner testified that all his children including those who are of age have no objection to this petition and, as matter of fact, Ana Pahamotang, one of the heirs of Melitona Pahamotang, who is the vice-president of the logging corporation, is the one at present negotiating for the increase of mortgage with the Philippine National Bank.'

The presumption arising from those statements of the intestate court is that the heirs were notified of the

petition for the increase of mortgage.

The same can be seen in the October 19, 1974 order:

'The records show that all the known heirs, namely Ana, Isabelita, Corazon, Susana, including the incompetent Genoveva, and the minors Josephine, Eleanor and Concepcion all surnamed were notified of the hearing of the petition.'

On the other hand, the February 25, 1980 order required Agustin to obtain first express conformity from the heirs before the subject property be sold to Arguna. The fact that this was reconsidered by the intestate court in its January 07, 1981 is of no moment. The questioned orders are valid having been issued in accordance with law and procedure. The problem with the plaintiffs-appellees is that, in trying to nullify the subject mortgages and the foreclosure proceedings in favor of PNB and the deeds of sale in favor of Arguna, they are assailing the aforesaid orders of the intestate court and in attacking the said orders, they attached documents that they believe would warrant the conclusion that the assailed orders are null and void. This is a clear collateral attack of the orders of the intestate court which is not void on its face and which cannot be allowed in the present action. The defects alleged by the plaintiff-appellees are not apparent on the face of the assailed orders. Their recourse is to ask for the declaration of nullity of the said orders, not in a collateral manner, but a direct action to annul the same".[8]

The same court added that petitioners' failure to assail said orders at the most opportune time constitutes laches:

"In their complaint below, plaintiffs, appellees are assailing in their present action, four orders of the intestate court namely: July 18, 1973, October 19, 1974, February 25, 1980 and January 07, 1981 orders which were then issued by Judge Martinez. It should be recalled that except for the January 07, 1981 order, Judge Jacinto, upon taking over Sp. No. 1792, denied the motion of the plaintiffs-appellees to set aside the aforesaid orders. Aside from their motion before Judge Jacinto, nothing on the records would show that the plaintiffs-appellees availed of other remedies to set aside the questioned orders. Further, the records would not show that the plaintiffs-appellees appealed the order of Judge Jacinto. If an interval of two years, seven months and ninety nine days were barred by laches, with more reason should the same doctrine apply to the present case, considering that the plaintiffs-appellees did not avail of the remedies provided by law in impugning the various orders of the intestate court. Thus, the questioned orders of the intestate court, by operation of law became final. It is a fundamental principle of public policy in every jural system that at the risk of occasional errors, judgments of courts should become final at some definite time fixed by law (*interest rei publicae ut finis sit litum*). The very object of which the courts were constituted was to put an end to controversies. Once a judgment or an order of a court has become final, the issues raised therein should be laid to rest. To date, except as to the present action which we will later discuss as improper, the plaintiff-appellees have not availed themselves of other avenues to have the orders issued by Judge Martinez and Judge Jacinto annulled and set aside. In the present case, when Judge Jacinto denied the motion of the plaintiffs-appellees, the latter had remedies provided by the rules to assail such order. The ruling by Judge Jacinto denying plaintiffs-appellees motion to set aside the questioned orders of Judge Martinez has long acquired finality. It is well embedded in our jurisprudence, that judgment properly rendered by a court vested with jurisdiction, like the RTC, and which has acquired finality becomes immutable and unalterable, hence, may no longer be modified in any respect except only to correct clerical errors or mistakes. Litigation must have and always has an end. If not, judicial function will lose its relevance".

In time, petitioners moved for a reconsideration but their motion was denied by the appellate court in its Resolution of November 20, 2002.

Hence, petitioners' present recourse, basically praying for the reversal of the CA decision and the reinstatement of that of the trial court.

We find merit in the petition.

It is petitioners' posture that the mortgage contracts dated July 6, 1973 and October 22, 1974 entered into by Agustin with respondent PNB, as well as his subsequent sale of estate properties to PLEI and Arguna on March 4, 1981, are void because they [petitioners] never consented thereto. They assert that as heirs of their mother Melitona, they are entitled to notice of Agustin's several petitions in the intestate court seeking authority to mortgage and sell estate properties. Without such notice, so they maintain, the four orders of the intestate court dated July 18, 1973, October 19, 1974, February 25, 1980 and January 7, 1981, which allowed Agustin to mortgage and sell estate properties, are void on account of Agustin's non-compliance with the mandatory requirements of Rule 89 of the Rules of Court.

Prescinding from their premise that said orders are completely void and hence, could not attain finality, petitioners maintain that the same could be attacked directly or collaterally, anytime and anywhere.

For its part, respondent PNB asserts that petitioners cannot raise as issue in this proceedings the validity of the subject orders in their desire to invalidate the contracts of mortgage entered into by Agustin. To PNB, the validity of the subject orders of the intestate court can only be challenged in a direct action for such purpose and not in an action to annul contracts, as the petitioners have done. This respondent adds that the mortgage on the subject properties is valid because the same was made with the approval of the intestate court and with the knowledge of the heirs of Melitona, petitioners included.[9]

Upon the other hand, respondent Heirs of Arturo Arguna likewise claim that petitioners knew of the filing with the intestate court by Agustin of petitions to mortgage and sell the estate properties. They reecho the CA's ruling that petitioners are barred by laches in filing Civil Case No. 16,802.[10]

As we see it, the determinative question is whether or not petitioners can obtain relief from the effects of contracts of sale and mortgage entered into by Agustin without first initiating a direct action against the orders of the intestate court authorizing the challenged contracts.

We answer the question in the affirmative.

It bears emphasizing that the action filed by the petitioners before the trial court in Civil Case No. 16,802 is for the annulment of several contracts entered into by Agustin for and in behalf of the estate of Melitona, namely: (a) contract of mortgage in favor of respondent PNB, (b) contract of sale in favor of Arguna involving seven (7) parcels of land; and (c) contract of sale of a parcel of land in favor of PLEI.

The trial court acquired jurisdiction over the subject matter of the case upon the allegations in the complaint that said contracts were entered into despite lack of notices to the heirs of the petition for the approval of those contracts by the intestate court.

Contrary to the view of the Court of Appeals, the action which petitioners lodged with the trial court in Civil Case No. 16,802 is not an action to annul the orders of the intestate court, which, according to CA, cannot be done collaterally. It is the validity of the contracts of mortgage and sale which is directly attacked in the action.

And, in the exercise of its jurisdiction, the trial court made a factual finding in its decision of August 7, 1998 that petitioners were, in fact, not notified by their father Agustin of the filing of his petitions for permission to mortgage/sell the estate properties. The trial court made the correct conclusion of law that the challenged orders of the intestate court granting Agustin's petitions were null and void for lack of compliance with the mandatory requirements of Rule 89 of the Rules of Court, particularly Sections 2, 4, 7 thereof, which respectively read:

"Sec. 2. When court may authorize sale, mortgage, or other encumbrance of realty to pay debts and legacies through personalty not exhausted. - When the personal estate of the deceased is not sufficient to pay the debts, expenses of administration, and legacies, or where the sale of such personal estate may injure the business or

other interests of those interested in the estate, and where a testator has not otherwise made sufficient provision for the payment of such debts, expenses, and legacies, the court, on the application of the executor or administrator and on written notice to the heirs, devisees, and legatees residing in the Philippines, may authorize the executor or administrator to sell, mortgage, or otherwise encumber so much as may be necessary of the real estate, in lieu of personal estate, for the purpose of paying such debts, expenses, and legacies, if it clearly appears that such sale, mortgage, or encumbrance would be beneficial to the persons interested; and if a part cannot be sold, mortgaged, or otherwise encumbered without injury to those interested in the remainder, the authority may be for the sale, mortgage, or other encumbrance of the whole of such real estate, or so much thereof as is necessary or beneficial under the circumstances”.

“Sec. 4. When court may authorize sale of estate as beneficial to interested persons. Disposal of proceeds. - When it appears that the sale of the whole or a part of the real or personal estate, will be beneficial to the heirs, devisees, legatees, and other interested persons, the court may, upon application of the executor or administrator and on written notice to the heirs, devisees and legatees who are interested in the estate to be sold, authorize the executor or administrator to sell the whole or a part of said estate, although not necessary to pay debts, legacies, or expenses of administration; but such authority shall not be granted if inconsistent with the provisions of a will. In case of such sale, the proceeds shall be assigned to the persons entitled to the estate in the proper proportions”.

“Sec. 7. Regulations for granting authority to sell, mortgage, or otherwise encumber estate. - The court having jurisdiction of the estate of the deceased may authorize the executor or administrator to sell personal estate, or to sell, mortgage, or otherwise encumber real estate; in cases provided by these rules and when it appears necessary or beneficial, under the following regulations:

(a) The executor or administrator shall file a written petition setting forth the debts due from the deceased, the expenses of administration, the legacies, the value of the personal estate, the situation of the estate to be sold, mortgaged, or otherwise encumbered, and such other facts as show that the sale, mortgage, or other encumbrance is necessary or beneficial;

(b) The court sha

ll thereupon fix a time and place for hearing such petition, and cause notice stating the nature of the petition, the reason for the same, and the time and place of hearing, to be given personally or by mail to the persons interested, and may cause such further notice to be given, by publication or otherwise, as it shall deem proper; (Emphasis supplied)”.

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Settled is the rule in this jurisdiction that when an order authorizing the sale or encumbrance of real property was issued by the testate or intestate court without previous notice to the heirs, devisees and legatees as required by the Rules, it is not only the contract itself which is null and void but also the order of the court authorizing the same.[11]

Thus, in *Maneclang vs. Baun*,^[12] the previous administrator of the estate filed a petition with the intestate court seeking authority to sell portion of the estate, which the court granted despite lack of notice of hearing to the heirs of the decedent. The new administrator of the estate filed with the Regional Trial Court an action for the annulment of the sales made by the previous administrator. After trial, the trial court held that the order of the intestate court granting authority to sell, as well as the deed of sale, were void. On appeal directly to this Court, We held that without compliance with Sections 2, 4 and 7 of Rule 89 of the Rules of Court, “the authority to sell, the sale itself and the order approving it would be null and void ab initio”.

In *Liu vs. Loy, Jr.*,^[13] while the decedent was still living, his son and attorney-in-fact sold in behalf of the

alleged decedent certain parcels of land to Frank Liu. After the decedent died, the son sold the same properties to two persons. Upon an ex parte motion filed by the 2nd set of buyers of estate properties, the probate court approved the sale to them of said properties. Consequently, certificates of title covering the estate properties were cancelled and new titles issued to the 2nd set of buyers. Frank Liu filed a complaint for reconveyance/ annulment of title with the Regional Trial Court. The trial court dismissed the complaint and the Court of Appeals affirmed the dismissal. When the case was appealed to us, we set aside the decision of the appellate court and declared the probate court's approval of the sale as completely void due to the failure of the 2nd set of buyers to notify the heir-administratrix of the motion and hearing for the sale of estate property.

Clearly, the requirements of Rule 89 of the Rules of Court are mandatory and failure to give notice to the heirs would invalidate the authority granted by the intestate/probate court to mortgage or sell estate assets.

Here, it appears that petitioners were never notified of the several petitions filed by Agustin with the intestate court to mortgage and sell the estate properties of his wife.

According to the trial court, the “[P]etition for Authority to Increase Mortgage” and “[P]etition for Declaration of Heirs and for Authority to Increase Indebtedness”, filed by Agustin on July 16, 1973 and October 5, 1974, respectively, do not contain information that petitioners were furnished with copies of said petitions. Also, notices of hearings of those petitions were not sent to the petitioners.[14] The trial court also found in Civil Case No. 16,802 that Agustin did not notify petitioners of the filing of his petitions for judicial authority to sell estate properties to Arturo Arguna and PLEI.[15]

As it were, the appellate court offered little explanation on why it did not believe the trial court in its finding that petitioners were ignorant of Agustin’s scheme to mortgage and sell the estate properties.

Aside from merely quoting the orders of July 18, 1973 and October 19, 1974 of the intestate court, the Court of Appeals leaves us in the dark on its reason for disbelieving the trial court. The appellate court did not publicize its appraisal of the evidence presented by the parties before the trial court in the matter regarding the knowledge, or absence thereof, by the petitioners of Agustin’s petitions. The appellate court cannot casually set aside the findings of the trial court without stating clearly the reasons therefor. Findings of the trial court are entitled to great weight, and absent any indication to believe otherwise, we simply cannot adopt the conclusion reached by the Court of Appeals.

Laches is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it has either abandoned or declined the right.[16] The essential elements of laches are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred.[17]

In the present case, the appellate court erred in appreciating laches against petitioners. The element of delay in questioning the subject orders of the intestate court is sorely lacking. Petitioners were totally unaware of the plan of Agustin to mortgage and sell the estate properties. There is no indication that mortgagor PNB and vendee Arguna had notified petitioners of the contracts they had executed with Agustin. Although petitioners finally obtained knowledge of the subject petitions filed by their father, and eventually challenged the July 18, 1973, October 19, 1974, February 25, 1980 and January 7, 1981 orders of the intestate court, it is not clear from the challenged decision of the appellate court when they (petitioners) actually learned of the existence of said orders

of the intestate court. Absent any indication of the point in time when petitioners acquired knowledge of those orders, their alleged delay in impugning the validity thereof certainly cannot be established. And the Court of Appeals cannot simply impute laches against them.

WHEREFORE, the assailed issuances of the Court of Appeals are hereby REVERSED and SET ASIDE and the decision dated August 7, 1998 of the trial court in its Civil Case No. 16,802 REINSTATED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Perlita J. Tria Tirona and concurred in by then Acting Presiding Justice (now deceased) Eubolo G. Verzola and then (now retired) Associate Justice Bernardo P. Abesamis.

[2] Rollo, pp. 63-64.

[3] Rollo, p. 42.

[4] Rollo, p. 66.

[5] Rollo, p. 73.

[6] Rollo, pp. 77-78.

[7] Rollo, pp. 39-53.

[8] Rollo, pp. 49-52.

[9] Rollo, pp. 138-158.

[10] Rollo, pp. 188-212.

[11] See *Rafols vs. Barba*, L-28446, December 13, 1982.

[12] 208 SCRA 179 [1992].

[13] 405 SCRA 319 [2003].

[14] RTC Decision, pp. 9-10, 13; Rollo, pp. 73-74, 77.

[15] RTC Decision, p. 13; Rollo, p. 77.

[16] *Villanueva-Mijares vs. Court of Appeals*, 330 SCRA 349 [2000].

[17] See Note 12.

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