

CAPITOLINA VIVERO NAPERRE, Petitioner, vs. AMANDO BARBARONA and GERVACIA MONJAS BARBARONA, Respondents.

G.R. No. 160426. January 31, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Petitioner Capitolina Vivero Napere interposes this petition for review to assail the Court of Appeals' Decision^[1] dated October 9, 2003, which upheld the validity of the Regional Trial Court's decision despite failure to formally order the substitution of the heirs of the deceased defendant, petitioner's husband.

The case stems from the following antecedents:

Respondent Amando Barbarona is the registered owner of Lot No. 3177, situated in Barangay San Sotero (formerly Tambis), Javier, Leyte and covered by Original Certificate of Title (OCT) No. P-7350. Lot No. 3176, covered by OCT No. 1110 in the name of Anacleto Napere, adjoins said lot on the northeastern side. After Anacleto died, his son, Juan Napere, and the latter's wife, herein petitioner, planted coconut trees on certain portions of the property with the consent of his co-heirs.

In their complaint, respondents alleged that in April 1980, the spouses Napere, their relatives and hired laborers, by means of stealth and strategy, encroached upon and occupied the northeastern portion of Lot No. 3177; that the Naperes harvested the coconut fruits thereon, appropriated the proceeds thereof, and, despite demands, refused to turn over possession of the area; that in April 1992, a relocation survey was conducted which confirmed that the respondents' property was encroached upon by the Naperes; that on the basis of the relocation survey, the respondents took possession of this encroached portion of the lot and harvested the fruits thereon from April 1993 to December 1993; but that in January 1994, the Naperes repeated their acts by encroaching again on the respondents' property, harvesting the coconuts and appropriating the proceeds thereof, and refusing to vacate the property on demand.

On November 10, 1995, while the case was pending, Juan Napere died. Their counsel informed the court of Juan Napere's death, and submitted the names and addresses of Napere's heirs.

At the pre-trial, the RTC noted that the Naperes were not contesting the respondents' right of possession over the disputed portion of the property but were demanding the rights of a planter in good faith under Articles 445 and 455 of the Civil Code.

On October 17, 1996, the RTC rendered a Decision against the estate of Juan Napere, thus:

WHEREFORE, this Court finds in favor of the plaintiff and against the defendant, hereby declaring the following:

- a) The estate of Juan Napere is liable to pay the amount of ONE HUNDRED SEVENTY-NINE THOUSAND TWO HUNDRED (P179,200.00) PESOS in actual damages;

b) The estate of Juan Napere shall be liable to pay FIVE THOUSAND (P5,000.00) PESOS in litigation expenses, and the

c) Cost[s] of suit.

SO ORDERED.[2]

Petitioner appealed the case to the Court of Appeals (CA), arguing, inter alia, that the judgment of the trial court was void for lack of jurisdiction over the heirs who were not ordered substituted as party-defendants for the deceased.

On October 9, 2003, the CA rendered a Decision affirming the RTC Decision.[3] The appellate court held that failure to substitute the heirs for the deceased defendant will not invalidate the proceedings and the judgment in a case which survives the death of such party.

Thus, this petition for review where the only issue is whether or not the RTC decision is void for lack of jurisdiction over the heirs of Juan Napere. Petitioner alleges that the trial court did not acquire jurisdiction over the persons of the heirs because of its failure to order their substitution pursuant to Section 17,[4] Rule 3 of the Rule of Court; hence, the proceedings conducted and the decision rendered by the trial court are null and void.

The petition must fail.

When a party to a pending case dies and the claim is not extinguished by such death, the Rules require the substitution of the deceased party by his legal representative or heirs. In such case, counsel is obliged to inform the court of the death of his client and give the name and address of the latter's legal representative.

The complaint for recovery of possession, quieting of title and damages is an action that survives the death of the defendant. Notably, the counsel of Juan Napere complied with his duty to inform the court of his client's death and the names and addresses of the heirs. The trial court, however, failed to order the substitution of the heirs. Nonetheless, despite this oversight, we hold that the proceedings conducted and the judgment rendered by the trial court are valid.

The Court has repeatedly declared that failure of the counsel to comply with his duty to inform the court of the death of his client, such that no substitution is effected, will not invalidate the proceedings and the judgment rendered thereon if the action survives the death of such party.[5] The trial court's jurisdiction over the case subsists despite the death of the party.

Mere failure to substitute a deceased party is not sufficient ground to nullify a trial court's decision. The party alleging nullity must prove that there was an undeniable violation of due process.[6]

Strictly speaking, the rule on substitution by heirs is not a matter of jurisdiction, but a requirement of due process.[7] The rule on substitution was crafted to protect every party's right to due process.[8] It was designed to ensure that the deceased party would continue to be properly represented in the suit through his heirs or the duly appointed legal representative of his estate.[9] Moreover, non-compliance with the Rules results in the denial of the right to due process for the heirs who, though not duly notified of the proceedings, would be substantially affected by the decision rendered therein.[10] Thus, it is only when there is a denial of due process, as when the deceased is not represented by any legal representative or heir, that the court nullifies the trial proceedings and the resulting judgment therein.[11]

Formal substitution by heirs is not necessary when they themselves voluntarily appear, participate in the case, and present evidence in defense of the deceased.[12] In such case, there is really no violation of the right to due process. The essence of due process is the reasonable opportunity to be heard and to submit any evidence

available in support of one's defense.[13] When due process is not violated, as when the right of the representative or heir is recognized and protected, noncompliance or belated formal compliance with the Rules cannot affect the validity of a promulgated decision.[14]

In light of these pronouncements, we cannot nullify the proceedings before the trial court and the judgment rendered therein because the petitioner, who was, in fact, a co-defendant of the deceased, actively participated in the case. The records show that the counsel of Juan Napere and petitioner continued to represent them even after Juan's death. Hence, through counsel, petitioner was able to adequately defend herself and the deceased in the proceedings below. Due process simply demands an opportunity to be heard and this opportunity was not denied petitioner.

Finally, the alleged denial of due process as would nullify the proceedings and the judgment thereon can be invoked only by the heirs whose rights have been violated. Violation of due process is a personal defense that can only be asserted by the persons whose rights have been allegedly violated.[15] Petitioner, who had every opportunity and who took advantage of such opportunity, through counsel, to participate in the trial court proceedings, cannot claim denial of due process.

WHEREFORE, premises considered, the petition is DENIED DUE COURSE. The Decision of the Court of Appeals, dated October 9, 2003, in CA-G.R. CV No. 56457, is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Corona, and Reyes, JJ., concur.

* In lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 484 dated January 11, 2008.

[1] Penned by Associate Justice Marina L. Buzon, with Associate Justices Sergio L. Pestaño and Jose C. Mendoza, concurring; rollo, pp. 32-41.

[2] Rollo, p. 48.

[3] Id. at 40.

[4] Now Section 16, Rule 3 of the 1997 Rules of Civil Procedure.

[5] *Riviera Filipina, Inc. v. Court of Appeals*, 430 Phil. 8, 30-31 (2002); *Benavidez v. Court of Appeals*, 372 Phil. 615, 623-624 (1999).

[6] *De la Cruz v. Joaquin*, G.R. No. 162788, July 28, 2005, 464 SCRA 576, 586.

[7] Id. at 585.

[8] Id. at 584.

[9] *Heirs of Bertuldo Hinog v. Melicor*, G.R. No. 140954, April 12, 2005, 455 SCRA 460, 478.

[10] *Vda. de Salazar v. Court of Appeals*, 320 Phil. 373, 378 (1995).

[11] *De la Cruz v. Joaquin*, supra note 6, at 585-586.

[12] Id. at 585.

[13] *Gochan v. Gochan*, 446 Phil. 433, 450 (2003).

[14] De la Cruz v. Joaquin, *supra* note 6, at 585-586.

[15] Carandang v. Heirs of Quirino A. De Guzman, G.R. No. 160347, November 29, 2006, 508 SCRA 469, 480.

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