

DANIEL D. CELINO, PETITIONER, VS. HEIRS OF ALEJO AND TERESA SANTIAGO, RESPONDENTS.

G.R. No. 161817. July 30, 2004

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TINGA, J.:

Before us is a petition for review of the Decision[1] of the Court of Appeals promulgated on 28 October 2002 and its Resolution[2] promulgated on 14 January 2004 denying petitioner's Motion for Reconsideration.

The case stemmed from an action for Quieting of Title, Recovery of Possession and Damages with Prayer for the Issuance of a Writ of Preliminary Mandatory Injunction filed by the heirs of Alejo and Teresa Santiago against herein petitioner Daniel Celino.[3] Petitioner filed a Motion to Dismiss,[4] alleging that complainant Juliet Santiago did not have the legal capacity to sue, since she did not have the corresponding written authority to represent her co-plaintiffs, and since the Complaint failed to state a cause of action. The trial court, presided by Judge Antonio C. Reyes, denied the said motion on the ground that the issues posed by petitioner could best be resolved during the trial.[5] It likewise denied petitioner's motion for reconsideration.[6]

Thereafter, pre-trial was held. There, plaintiff Juliet Santiago presented through counsel, a copy of the Special Power of Attorney[7] executed by Virginia S. Robertson and Gloria S. Tinoyan, two of the plaintiffs in the Complaint, authorizing counsels Juan Antonio R. Alberto III and Alexander A. Galpo to represent them in the pre-trial of the case. Likewise submitted was a Special Power of Attorney[8] executed by Romeo Santiago, Juliet Santiago and Larry Santiago in favor of above-named counsels to represent them in the pre-trial conference.

Trial ensued and plaintiffs therein, now respondents, presented their evidence. Petitioner filed a Demurrer to Evidence,[9] still on the ground of Juliet Santiago's alleged lack of legal capacity to sue. Petitioner claimed that the evidence presented by Santiago should not be admitted since she failed to present any evidence of authority to file the complaint for and in behalf of her co-plaintiffs. In an Order dated 29 April 2002,[10] Judge Reyes denied the Demurrer, stating that Juliet Santiago had submitted the necessary authorization. On 10 July 2002, the Judge denied petitioner's Motion for Reconsideration[11] for lack of merit.[12]

Petitioner thereafter filed a Petition For Review on Certiorari,[13] seeking to nullify and set aside the 29 April 2002 and the 10 July 2002 orders of the trial court. In its Decision dated 28 October 2003, the Court of Appeals dismissed the petition, stating that petitioner's allegation of lack of legal capacity to sue is not the ground contemplated by the Rules of Court to support an adverse party's Demurrer to Evidence.[14] Thereafter, petitioner filed his Motion for Reconsideration,[15] which was denied for lack of merit.[16]

Petitioner now submits the following issues:

- WHETHER OR NOT A DEMURRER TO EVIDENCE UNDER RULE 33 OF THE REVISED RULES OF COURT MAY BE RESORTED TO WHEN CLEARLY THE COMPLAINT (SIC) HAS NO AUTHORITY TO SUE FOR AND IN BEHALF OF HER CO-PLAINTIFFS.
- WHETHER OR NOT THE COMPLAINT MAY BE DISMISSED FOR FAILURE OF CO-PLAINTIFFS

TO EXECUTE AND SIGN THE CERTIFICATION AGAINST NON-FORUM SHOPPING.[17]

A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence and is presented after the plaintiff rests his case.[18] It is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.[19] The evidence contemplated by the rule on demurrer is that which pertains to the merits of the case.[20] Thus, as correctly held by the Court of Appeals, lack of legal capacity to sue is not a proper ground for a demurrer to evidence, pertaining as it does to a technical aspect, and it having nothing to do with the evidence on the merits of the complaint. Consequently, petitioner's Demurrer to Evidence and Motion for Reconsideration should be denied, as the trial court did.

Anent the second issue, we hold that the Complaint may not be dismissed on account of the failure of the other plaintiffs to execute and sign the certification against non-forum shopping.

Respondents herein are co-owners of two parcels of land owned by their deceased mother. The properties were allegedly encroached upon by the petitioner. As co-owners of the properties, each of the heirs may properly bring an action for ejectment,[21] forcible entry and detainer,[22] or any kind of action for the recovery of possession of the subject properties. [23] Thus, a co-owner may bring such an action, even without joining all the other co-owners as co-plaintiffs, because the suit is deemed to be instituted for the benefit of all.[24] However, if the action is for the benefit of the plaintiff alone, such that he claims the possession for himself and not for the co-ownership, the action will not prosper.[25]

It is clear from the Complaint that the same was made precisely to recover possession of the properties owned in common, and as such, will redound to the benefit of all the co-owners. Indeed, in the verification of the Complaint, Juliet Santiago claimed that she caused the preparation and the filing of the said pleading as a co-owner of the subject properties and as a representative of the other plaintiffs. Hence, the instant case may prosper even without the authorization from Juliet Santiago's co-plaintiffs.

From the procedural perspective, the instant petition should also fail. Petitioner questioned Juliet Santiago's authority to sue in behalf of his co-plaintiffs in his Motion to Dismiss dated 24 August 1999, which the lower court denied in its Order dated 16 March 2000. After filing a motion for reconsideration dated 30 March 2000, as well as a Supplemental to Motion for Reconsideration dated 11 April 2000,[26] which the lower court denied in its Order dated 02 May 2000, he did nothing until he filed the Demurrer to Evidence dated 11 February 2002. But that was after the pre-trial and trial on the merits were conducted and plaintiffs had presented their evidence-in-chief. On the assumption that the lower court committed grave abuse of discretion in denying the Motion to Dismiss' petitioner as defendant should have filed the corresponding petition for certiorari under Rule 65 of the Revised Rules of Court with the Court of Appeals. He failed to do so within the period prescribed therefor, which is not later than sixty (60) days from notice of the order denying the motion for reconsideration.[27] Thus, it is clear that even his petition under Rule 65 before the Court of Appeals was filed way out of time, it having been presented only on 31 July 2002.[28]

While the instant petition seeks only to resolve the above-stated issues, this Court will not close its eyes to any irregularity or defect in any decision or disposition, which, if tolerated, may result to confusion, and even injustice to any of the litigants.[29]

In the instant case, not only was the trial court miscreant in appreciating the documents presented before it, it was also injudicious in its understanding of the nature of a demurrer to evidence.

Relying on the two Special Powers of Attorney presented by the plaintiff, the trial court denied petitioner's

Demurrer to Evidence in the following manner:

“Considering that plaintiff Juliet Santiago has submitted the necessary Special Power of Authority from her co-plaintiffs authorizing her to institute the instant action against the defendant, the Demurrer to Evidence is denied for lack of merit.”[30] (emphasis supplied)

As correctly pointed out by the petitioner, the said instruments were grants of authority to plaintiffs’ counsel to represent them in the pre-trial conference and cannot in any way be constituted as a source of authority for Juliet Santiago to be the legal representative of her co-heirs. As such, plaintiff Juliet Santiago has not in fact presented any evidence supporting her claim that she is the duly constituted representative of the other named plaintiffs in the Complaint. Despite the very clear wording of the instruments, the trial court failed to appreciate the import of the same and equated the Special Powers of Attorney executed in favor of counsel to an authorization in favor of Juliet Santiago.

In this regard, Judge Antonio Reyes of the Regional Trial Court of Cebu is well-advised to be prudent and meticulous in appreciating the documents and evidence presented before him. The duty to be well-informed of the law and legal procedures is ingrained in the position of court judge.

WHEREFORE, the instant Petition is DENIED for lack of merit. The assailed Decision dated 28 October 2002 and the Resolution dated 14 January 2004 are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

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

[1] Promulgated by Justice Mariano C. del Castillo, concurred in by Justices Rodrigo V. Cosico and Rosalinda Asuncion-Vicente; Rollo, p. 119.

[2] Id. at 133.

[3] Civil Case No. 4477-R before Branch 61 of the Regional Trial Court, First Judicial Region, Baguio City. Rollo, pp. 43-55.

[4] Rollo, p. 56.

[5] Id. at 64.

[6] Id. at 69.

[7] Id. at 139.

[8] Id. at 141.

[9] Id. at 83.

[10] Id. at 94.

[11] Id. at 95.

[12] Id. at 103.

[13] Id. at 19

[14] Id at 126.

[15] Id. at 128.

[16] Id. at 133.

[17] Id. at 8.

[18] Florenz D. Regalado, REMEDIAL LAW COMPENDIUM, Vol. 1, p. 354 (1997).

[19] Gutib v. Court of Appeals, 371 Phil. 293, 300 (1999), citing BLACK'S LAW DICTIONARY, 5[th] Ed., p. 390 (1979).

[20] Philippine Amusement and Gaming Corp. v. Court of Appeals, 275 SCRA 433, 440 (1997).

[21] Art. 487 of the Civil Code.

[22] Sering v. Plazo, 166 SCRA 85, 86 (1999) citing Vencilao v. Camarento, 29 SCRA 473).

[23] Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, Vol. II, p. 170, (1992).

[24] Sering v. Plaza, supra, citing Tolentino, Civil Code, (1983).

[25] Tolentino, supra, citing Sentencia of 17 June 1927.

[26] Rollo, p. 67.

[27] Section 4, Rule 65 of the 1997 Rules of Civil Procedure.

[28] Rollo, p. 19.

[29] Antonio v. Intermediate Appellate Court, 216 SCRA 214, 220 (1992).

[30] Rollo, p. 94.

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