

**FAUSTINO REYES, ESPERIDION REYES, JULIETA C. RIVERA, AND EUTQUIO DICO, JR., PETITIONERS, VS. PETER B. ENRIQUEZ, FOR HIMSELF AND ATTORNEY-IN-FACT OF HIS DAUGHTER DEBORAH ANN C. ...***G.R. No. 162956. April 10, 2008*

Ponente: PUNO, CJ.

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This case is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court from the decision of the Court of Appeals (CA) dated September 29, 2003 in CA G.R. CV No. 68147, entitled "Peter B. Enriquez, et al. v. Faustino Reyes, et al., reversing the decision of the Regional Trial Court (RTC) of Cebu City, Branch XI dated June 29, 2000, which dismissed the complaint filed by the respondents herein.[1]

The subject matter of the present case is a parcel of land known as Lot No. 1851 Flr-133 with an aggregate area of 2,017 square meters located in Talisay, Cebu.[2]

According to petitioners Faustino Reyes, Esperidion Reyes, Julieta C. Rivera, and Eutiquio Dico, Jr., they are the lawful heirs of Dionisia Reyes who co-owned the subject parcel of land with Anacleto Cabrera as evidenced by Transfer Certificate of Title (TCT) No. RT-3551 (T-8070). On April 17, 1996, petitioners executed an Extrajudicial Settlement with Sale of the Estate of Dionisia Reyes (the Extra Judicial Settlement) involving a portion of the subject parcel of land. On March 21, 1997, the petitioners and the known heirs of Anacleto Cabrera executed a Segregation of Real Estate and Confirmation of Sale (the Segregation and Confirmation) over the same property. By virtue of the aforesaid documents, TCT No. RT-3551 (T-8070) was cancelled and new TCTs were issued: (1) TCT No. T-98576 in the name of Anacleto Cabrera covering Lot 1851-A; (2) TCT No. T-98577 covering Lot 1851-B in the name of petitioner Eutiquio Dico, Jr.; (3) TCT No. T-98578 covering Lot 1851-C in the name of petitioner Faustino Reyes; (4) TCT No. T-98579 covering Lot 1851-D in the name of petitioner Esperidion Reyes; (5) TCT No. T-98580 covering Lot 1851-E in the name of petitioner Julieta G. Rivera; (6) TCT No. T-98581 covering Lot 1851-F in the name of Felipe Dico; and (7) TCT No. T-98582 covering Lot 1851-G in the name of Archimedes C. Villaluz.[3]

Respondents Peter B. Enriquez (Peter) for himself and on behalf of his minor daughter Deborah Ann C. Enriquez (Deborah Ann), also known as Dina Abdullah Enriquez Alsagoff, on the other hand, alleges that their predecessor-in-interest Anacleto Cabrera and his wife Patricia Seguera Cabrera (collectively the Spouses Cabrera) owned ½ pro-indiviso share in the subject parcel of land or 1051 sq. m. They further allege that Spouses Cabrera were survived by two daughters - Graciana, who died single and without issue, and Etta, the wife of respondent Peter and mother of respondent Deborah Ann - who succeeded their parents' rights and took possession of the 1051 sq. m. of the subject parcel of land. During her lifetime, Graciana sold her share over the land to Etta. Thus, making the latter the sole owner of the one-half share of the subject parcel of land. Subsequently, Etta died and the property passed on to petitioners Peter and Deborah Ann by virtue of an Extra-Judicial Settlement of Estate.

On June 19, 1999, petitioners Peter and Deborah Ann sold 200 sq. m. out of the 1051 sq. m. for P200,000.00 to Spouses Dionisio and Catalina Fernandez (Spouses Fernandez), also their co-respondents in the case at bar. After the sale, Spouses Fernandez took possession of the said area in the subject parcel of land.[4]

When Spouses Fernandez, tried to register their share in the subject land, they discovered that certain documents prevent them from doing so: (1) Affidavit by Anacleto Cabrera dated March 16, 1957 stating that his share in Lot No. 1851, the subject property, is approximately 369 sq. m.; (2) Affidavit by Dionisia Reyes dated July 13, 1929 stating that Anacleto only owned  $\frac{1}{4}$  of Lot No. 1851, while 302.55 sq. m. belongs to Dionisia and the rest of the property is co-owned by Nicolasa Bacalso, Juan Reyes, Florentino Reyes and Maximiano Dico; (3) Extra-Judicial Settlement with Sale of the Estate of Dionisia Reyes dated April 17, 1996; (4) certificates of title in the name of the herein petitioners; and (5) Deed of Segregation of Real Estate and Confirmation of Sale dated March 21, 1997 executed by the alleged heirs of Dionisia Reyes and Anacleto Cabrera. Alleging that the foregoing documents are fraudulent and fictitious, the respondents filed a complaint for annulment or nullification of the aforementioned documents and for damages. [5] They likewise prayed for the "repartition and resubdivision" of the subject property.[6]

The RTC, upon motion of the herein petitioners, dismissed the case on the ground that the respondents-plaintiffs were actually seeking first and foremost to be declared heirs of Anacleto Cabrera since they can not demand the partition of the real property without first being declared as legal heirs and such may not be done in an ordinary civil action, as in this case, but through a special proceeding specifically instituted for the purpose.[7]

On appeal, the Court of Appeals (CA) reversed the RTC and directed the trial court to proceed with the hearing of the case.[8] The Motion for Reconsideration filed by the herein petitioners was similarly denied.[9]

Hence this petition.

The primary issue in this case is whether or not the respondents have to institute a special proceeding to determine their status as heirs of Anacleto Cabrera before they can file an ordinary civil action to nullify the affidavits of Anacleto Cabrera and Dionisia Reyes, the Extra-Judicial Settlement with the Sale of Estate of Dionisia Reyes, and the Deed of Segregation of Real Estate and Confirmation of Sale executed by the heirs of Dionisia Reyes and the heirs of Anacleto Cabrera, as well as to cancel the new transfer certificates of title issued by virtue of the above-questioned documents.

We answer in the affirmative.

An ordinary civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.[10] A special proceeding, on the other hand, is a remedy by which a party seeks to establish a status, a right or a particular fact.[11]

The Rules of Court provide that only a real party in interest is allowed to prosecute and defend an action in court.[12] A real party in interest is the one who stands to be benefited or injured by the judgment in the suit or the one entitled to the avails thereof.[13] Such interest, to be considered a real interest, must be one which is present and substantial, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest.[14] A plaintiff is a real party in interest when he is the one who has a legal right to enforce or protect, while a defendant is a real party in interest when he is the one who has a correlative legal obligation to redress a wrong done to the plaintiff by reason of the defendant's act or omission which had violated the legal right of the former.[15] The purpose of the rule is to protect persons against undue and unnecessary litigation.[16] It likewise ensures that the court will have the benefit of having before it the real adverse parties in the consideration of a case.[17] Thus, a plaintiff's right to institute an ordinary civil action should be based on his own

right to the relief sought.

In cases wherein alleged heirs of a decedent in whose name a property was registered sue to recover the said property through the institution of an ordinary civil action, such as a complaint for reconveyance and partition,[18] or nullification of transfer certificate of titles and other deeds or documents related thereto,[19] this Court has consistently ruled that a declaration of heirship is improper in an ordinary civil action since the matter is "within the exclusive competence of the court in a special proceeding." [20] In the recent case of *Portugal v. Portugal-Beltran*,[21] the Court had the occasion to clarify its ruling on the issue at hand, to wit:

The common doctrine in *Litam*, *Solvio* and *Guilas* in which the adverse parties are putative heirs to the estate of a decedent or parties to the special proceedings for its settlement is that if the special proceedings are pending, or if there are no special proceedings filed but there is, under the circumstances of the case, a need to file one, then the determination of, among other issues, heirship should be raised and settled in said special proceedings. Where special proceedings had been instituted but had been finally closed and terminated, however, or if a putative heir has lost the right to have himself declared in the special proceedings as co-heir and he can no longer ask for its re-opening, then an ordinary civil action can be filed for his declaration as heir in order to bring about the annulment of the partition or distribution or adjudication of a property or properties belonging to the estate of the deceased.[22]

In the instant case, while the complaint was denominated as an action for the "Declaration of Non-Existency[sic], Nullity of Deeds, and Cancellation of Certificates of Title, etc.," a review of the allegations therein reveals that the right being asserted by the respondents are their right as heirs of Anacleto Cabrera who they claim co-owned one-half of the subject property and not merely one-fourth as stated in the documents the respondents sought to annul. As correctly pointed out by the trial court, the ruling in the case of *Heirs of Guido Yaptinchay v. Hon. Roy del Rosario*[23] is applicable in the case at bar. In the said case, the petitioners therein, claiming to be the legal heirs of the late Guido and Isabel Yaptinchay filed for annulment of the transfer certificates of title issued in the name of Golden Bay Realty Corporation on the ground that the subject properties rightfully belong to the petitioners' predecessor and by virtue of succession have passed on to them. In affirming the trial court therein, this Court ruled:

...(T)he plaintiffs who claimed to be the legal heirs of the said Guido and Isabel Yaptinchay have not shown any proof or even a semblance of it -- except the allegations that they are the legal heirs of the aforementioned Yaptinchays -- that they have been declared the legal heirs of the deceased couple. Now, the determination of who are the legal heirs of the deceased couple must be made in the proper special proceedings in court, and not in an ordinary suit for reconveyance of property. This must take precedence over the action for reconveyance.[24]

In the same manner, the respondents herein, except for their allegations, have yet to substantiate their claim as the legal heirs of Anacleto Cabrera who are, thus, entitled to the subject property. Neither is there anything in the records of this case which would show that a special proceeding to have themselves declared as heirs of Anacleto Cabrera had been instituted. As such, the trial court correctly dismissed the case for there is a lack of cause of action when a case is instituted by parties who are not real parties in interest. While a declaration of heirship was not prayed for in the complaint, it is clear from the allegations therein that the right the respondents sought to protect or enforce is that of an heir of one of the registered co-owners of the property prior to the issuance of the new transfer certificates of title that they seek to cancel. Thus, there is a need to establish their status as such heirs in the proper forum.

Furthermore, in *Portugal*,[25] the Court held that it would be superfluous to still subject the estate to administration proceedings since a determination of the parties' status as heirs could be achieved in the ordinary civil case filed because it appeared from the records of the case that the only property left by the decedent was the

subject matter of the case and that the parties have already presented evidence to establish their right as heirs of the decedent. In the present case, however, nothing in the records of this case shows that the only property left by the deceased Anacleto Cabrera is the subject lot, and neither had respondents Peter and Deborah Ann presented any evidence to establish their rights as heirs, considering especially that it appears that there are other heirs of Anacleto Cabrera who are not parties in this case that had signed one of the questioned documents. Hence, under the circumstances in this case, this Court finds that a determination of the rights of respondents Peter and Deborah Ann as heirs of Anacleto Cabrera in a special proceeding is necessary.

IN VIEW WHEREOF, the petition is GRANTED. The decision of the Court of Appeals is hereby REVERSED and the decision of the Regional Trial Court dated June 29, 2000 DISMISSING the complaint is REINSTATED.

No costs.

**SO ORDERED.**

Carpio, Corona, and Leonardo-De Castro, JJ., concur.  
Azcuna, J., on official leave.

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[1] Rollo, p. 10.

[2] Id. at p. 88.

[3] Id. at pp. 12-13.

[4] Id. at pp. 88-89.

[5] Id. at pp. 89-90.

[6] Id. at p. 34.

[7] Id. at pp. 43-44.

[8] Id. at pp. 20-26.

[9] Id. at pp. 28-29.

[10] Sec. 1 (a), Rule 1, Rules of Court.

[11] Id. at Sec. 1(c), Rule 1.

[12] Id. at Sec. 2, Rule 3.

[13] Id.

[14] Ibonilla v. Province of Cebu, G.R. No. 97463, June 26, 1992 citing Garcia v. David, 67 Phil. 279 (1939).

[15] Id. citing Lee v. Romillo, Jr., G.R. No. L-60937, May 28, 1988, 161 SCRA 589.

[16] Fajardo v. Freedom to Build, Inc., 400 Phil. 1272 (2000) citing Moore v. Jamieson, 45L Pa 299, 306 A2d 283.

[17] Id. citing Washakie Country School Dist. v. Herschier, (Wyo) 606 P2d 310 cert. den. 449 U.S. 824, 66 L. Ed. 2d 28, 101 S. Ct. 86.

[18] Solivio v. Court of Appeals, G.R. No. 83484, February 12, 1990, 182 SCRA 119 (1990).

[19] Portugal v. Portugal-Beltran, G.R. No. 155555, August 16, 2005, 467 SCRA 184.

[20] Litam, etc., et al. v. Rivera, 100 Phil. 364 (1956).

[21] Supra note 19.

[22] Id; emphases supplied.

[23]Heirs of Guido Yaptinchay v. Hon. Roy del Rosario, G.R. No. 124320, March 2, 1999, 304 SCRA 18.

[24]Id.

[25] Supra note 19.

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