

INTESTATE ESTATE OF THE LATE NIMFA SIAN, REPRESENTED BY ITS SPECIAL ADMINISTRATRIX, CHARITO J. SIAN-PARREÑO, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

G.R. No. 168882. January 31, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Nimfa Sian (Nimfa) filed a petition[1] with the Regional Trial Court (RTC) of Himamaylan, Negros Occidental (docketed as Cadastral Case No. 22), for cancellation of mortgage liens annotated on three titled properties against the Bacolod branch of the Philippine National Bank-Republic Bank (PNB-RB), now Maybank Philippines, Inc. (Maybank), and the Register of Deeds of Negros Occidental.

Summons was served on Maybank. On Maybank's Motion, Branch 55 of the RTC granted it time to file responsive pleading up to August 23, 2001.[2]

On August 23, 2001, the last day for Maybank to file responsive pleading, PNB filed a "Motion for Substitution and Motion to Dismiss,"[3] alleging that Maybank referred the case to it "for handling inasmuch as the properties involved . . . were already transferred to [it] by virtue of a dacion en pago executed by and between the two banks"; and it having acquired a legal interest over the subject properties, it, not Maybank, would be adversely affected by an unfavorable judgment.

PNB cited Section 19, Rule 3 of the Rules of Court in support of its Motion for Substitution, adding that under the circumstances, it had become an indispensable party under Section 7, Rule 3 of the Rules of Court.

In its Motion to Dismiss, PNB raised the absence in the complaint of verification and certification against forum shopping.[4]

Nimfa filed her Opposition to PNB's motions.

Maybank confirmed, in its Comment[5] on PNB's Motion for Substitution, that PNB had acquired legal interest over the properties subject of the petition and thus joined PNB's prayer for substitution.

Meanwhile, Nimfa died[6] and was substituted by her estate, Intestate Estate represented by her sister, Charito J. Sian-Parreño, as special administratrix, herein petitioner.[7] The estate filed a Rejoinder-Opposition to [PNB's] Motion for Substitution and Motion to Dismiss Petition[8] on January 16, 2002.

On July 8, 2002, petitioner filed a Motion for Early Resolution[9] of PNB's "Motion for Substitution and Motion to Dismiss," setting said Motion for Early Resolution for hearing on August 8, 2002.

The trial court accordingly sent Notice of Hearing on August 8, 2002 to the parties. A day before the scheduled hearing on August 8, 2002 of the Motion for Early Resolution or on August 7, 2002, petitioner through counsel and PNB through counsel filed a Joint Manifestation,[10] the pertinent portion of which reads:

4. Having made known their respective stand[s] on the issue of whether or not PNB should be permitted to substitute Maybank in this case, both parties hereby manifest that they will submit the pending incident for the resolution of the Honorable Court without further oral argument and request that the hearing scheduled on 08 August 2002 be cancelled. (Emphasis and underscoring supplied)

By Order[11] of August 15, 2002, the trial court denied PNB's Motion for Substitution on the ground that it "lacks basis considering that there were no documents to support the dacion en pago agreement and/or deed of assignment between PNB and PNB-RB that asset Pool I accounts of the petitioner were transferred to PNB." By the same Order, the trial court, finding that a certification on non-forum shopping appeared on Nimfa's petition, denied PNB's motion to dismiss. Still by the same Order, the trial court, noting that "the parties [sic]. . . filed a joint manifestation that they were submitting the pending petition (sic) for resolution of the court without need for oral arguments," granted the petition to cancel the mortgage liens.

PNB filed a Motion for Reconsideration of the denial of its motions[12] which the trial court denied by Order of October 29, 2002.[13]

On July 9, 2003, PNB filed with the Court of Appeals a Petition[14] for annulment of judgment (the trial court's Order of August 15, 2002) with prayer for temporary restraining order and preliminary injunction. By Decision[15] dated January 25, 2005, the Court of Appeals granted PNB's petition in this wise:

The case before the Regional Trial Court was a cadastral case for the cancellation of mortgage liens annotated at the back of three transfer certificates of titles. Without any trial conducted and based on the pleadings submitted, which comprised only of the petition and various motions, the respondent judge issued an order and decided the case based on the merits. This we find to be highly not in order.

. . . By considering the case as submitted for resolution without giving the parties opportunity to present evidence to support their claims is tantamount to denial of due process.

x x x x

With the above incidents and in conjunction with the ruling of the Supreme Court regarding the need for an adversarial proceeding on the matter of canceling and passing upon property rights, we find that . . . PNB was denied of opportunity to present evidence against the claims of private respondent. This resulted to the cancellation of the mortgage liens to the prejudice of petitioner PNB.[16] (Underscoring supplied)

The appellate court accordingly set aside the trial court's Order of August 15, 2002 and that of October 29, 2002. Thus it disposed:

WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case and SETTING ASIDE the questioned final orders dated August 15, 2002 and October 29, 2002, without prejudice to the original action being refiled in the proper court. (Underscoring supplied)

SO ORDERED. [17]

Its Motion for Reconsideration[18] having been denied by Order of August 15, 2002,[19] petitioner filed the instant Petition[20] for Review on Certiorari, contending that

- THE PETITION FOR ANNULMENT OF JUDGMENT . . . IS NO LONGER AVAILABLE TO . . . PNB SINCE IT FAILED TO AVAIL OF THE REMEDY OF APPEAL FROM THE ORDER DATED AUGUST 15, 2002 THROUGH ITS OWN FAULT OR NEGLIGENCE . . .
- THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED BY HOLDING THAT LACK OF DUE PROCESS IS AN ADDITIONAL GROUND FOR ANNULMENT OF JUDGMENT . . .

- . . . THE HONORABLE COURT OF APPEALS ERRED BY HOLDING THAT THERE IS LACK OF DUE PROCESS IN THE INSTANT CASE . . . [21] (Underscoring supplied)

The petition fails.

Although Section 2 of Rule 47 of the Rules of Court provides that annulment of a final judgment or order of an RTC may be based “only on the grounds of extrinsic fraud and lack of jurisdiction,” jurisprudence recognizes as additional ground therefor denial of due process.[22] So *Arcelona v. Court of Appeals*[23] teaches:

It is clear then that to set aside a final and executory judgment, there are three remedies available to a litigant: first, a petition for relief from judgment under Rule 38 of the Rules of Court on grounds of fraud, accident, mistake and excusable negligence filed within sixty (60) days from the time petitioner learns of the judgment but not more than six months from the entry thereof; second, a direct action to annul for a judgment on the ground of extrinsic fraud; and third, a direct action for certiorari or collateral attack to annul a judgment that is void upon its face or void by virtue of its own recitals. Thus, *Macabingkil* did not preclude the setting aside of a decision that is patently void where mere inspection of the judgment is enough to demonstrate its nullity on grounds of want of jurisdiction or non-compliance with due process of law. [Emphasis in original]. This doctrine is recognized in other cases:

“x x x There is no question that a final judgment may be annulled. There are, however, certain requisites which must be established before a judgment can be the subject of an action for annulment. Under the present procedure, aside from the reliefs provided in these two sections (Secs. 1 & 2, Rule 38), there is no other means whereby the defeated party may procure final and executory judgment to be set aside with a view to the renewal of the litigation, unless (a) the judgment is void for want of jurisdiction or for lack of due process of law, or (b) it has been obtained by fraud x x x . [Emphasis omitted.]”

On the one hand, extrinsic fraud is the ground to annul a voidable judgment; the declaration of nullity of a patently void final judgment, on the other, is based on grounds other than extrinsic fraud. To say, then, that petitioners can avail themselves only of the ground of extrinsic fraud and no other is to fail to appreciate the true meaning and ramifications of annulment/nullity.[24] (Citations omitted; emphasis and underscoring supplied)

The Joint Manifestation of “the parties”[25] which the trial court noted in its questioned Order of August 15, 2002, submitted for resolution without further oral argument the pending incident, which was PNB’s motion for substitution, not the pending “petition for cancellation of mortgage liens as the trial judge incorrectly read or understood.[26]Section 19 of Rule 3 of Rules of Court which provides:

SEC. 19. Transfer of interest. ? In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action. (Emphasis supplied),

uses the word “may” to denote that the substitution of parties on account of transfer of interest from the original party to another is discretionary. The trial judge’s denial of PNB’s Motion for Substitution may not, under the circumstances, thus be seriously assailed.

The trial court’s order granting the petition for cancellation even while the therein respondent Maybank had not been given the chance to file an Answer and, therefore, there was yet no joinder of issues, deprived Maybank, predecessor-in-interest of PNB, of due process of law, thus rendering said order void.

Thus, in *Bacolod City Water District v. Labayan* where the trial court decided a case after it denied the defendant’s Motion to Dismiss, this Court held:

x x x x

The short circuiting of the procedural process denied the petitioner due process of law. It was not able to allege

its defenses in an answer and prove them in a hearing. . . . Over and above every desideratum in litigation is fairness. All doubts should be resolved in favor of fairness.[27]

x x x x (Underscoring supplied)

Petitioner's argument that PNB could no longer avail of a petition for annulment of judgment due to its failure to appeal the trial court's Order dated August 15, 2002 fails. For, since the Motion for Substitution of PNB was denied, PNB had no personality to assail the said order.

The trial court's order being null and void, it may be assailed at any time either collaterally or in a direct action or by resisting the same in any action or proceeding whenever it is invoked, unless barred by laches.[28] That laches had not set in, there is no doubt.

En passant, one need not be a party to the judgment sought to be annulled. What is essential is that it can prove his allegation that the judgment was obtained by the use of fraud and collusion and it would be adversely affected thereby.[29] Even where there was no fraud and collusion, however, this Court has allowed parties to file petitions for annulment of judgment to question precisely their non-inclusion as parties to the original case.[30] E.g., in *National Housing Authority v. Evangelista*[31] where this Court upheld the annulment of the trial court judgment, at the instance of a person who was not impleaded in the original case, this Court held:

Petitioner argues that it should not bear the consequence of the trial court's denial of its motion to include respondent as defendant in Civil Case No. Q-91-10071. True, it was not petitioner's fault that respondent was not made a party to the case. But likewise, it was not respondent's fault that he was not given the opportunity to present his side of the story. Whatever prompted the trial court to deny petitioner's motion to include respondent as defendant is not for the Court to reason why. xxx Be that as it may, the undeniable fact remains – respondent is not a party to Civil Case No. Q-91-10071 and xxx any portion of the trial court 's judgment xxx cannot be binding on him.[32]

WHEREFORE, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] RTC records, pp. 1-6.

[2] Id. at 27.

[3] Id. at 28-30.

[4] Id. at 29.

[5] Id. at 55-56.

[6] Id. at 45, 58.

[7] Id. at 58.

[8] Id. at 59-62.

[9] Id. at 65-66.

[10] Id. at 68.

[11] Id. at 70-75.

[12] Id. at 84-87.

[13] Id. at 218.

[14] CA rollo, pp. 2-20.

[15] Penned by Court of Appeals Associate Justice Isaias P. Dicdican, with the concurrence of Associate Justices Sesinando E. Villon and Ramon M. Bato, Jr., id. at 187-197.

[16] Id. at 193-195.

[17] Id. at 197.

[18] Id. at 198-212.

[19] Id. at 224-225.

[20] Rollo, pp. 12-29.

[21] Id. at 16-17.

[22] Mercado v. Security Bank Corporation, G.R. No. 160445, February 16, 2006, 482 SCRA 501, 514; Alaban v. Court of Appeals, G.R. No. 156021, September 23, 2005, 470 SCRA 697, 707; Hi-Tone Marketing Corporation v. Baikal Realty Corporation, G.R. No. 149992, August 20, 2004, 437 SCRA 121, 131; Salonga v. Court of Appeals, G.R. No. 111478, March 13, 1997, 269 SCRA 534, 542; Pinlac v. Court of Appeals, G.R. No. 91486, January 19, 2001, 349 SCRA 635, 650; Heirs of Pael v. Court of Appeals, G.R. No. 133547, February 10, 2000, 325 SCRA 341, 358. Lapulapu Development & Housing Corporation v. Risos, G.R. No. 118633, September 6, 1996, 261 SCRA 517, 524; Regidor v. Court of Appeals, G.R. No. 78115, March 5, 1993, 219 SCRA 530, 534.

[23] G.R. No. 102900, October 2, 1997, 280 SCRA 20.

[24] Id. at 34-35.

[25] It was petitioner and PNB, which was not impleaded in the petition filed before the trial court, which filed the Joint Manifestation.

[26] Vide supra note 1 at 68, 74-75.

[27] Bacolod City Water District v. Labayan, G.R. No. 157494, Dec. 10, 2004, 446 SCRA 110, 124-125.

[28] Vide Ancheta v. Ancheta, G.R. No. 145370, March 4, 2004, 424 SCRA 725, 735; Ramos v. Court of Appeals, G.R. No. 42108, Dec. 29, 1989, 180 SCRA 635, 649.

("[A void judgment] is, in contemplation of law non-existent and may be wholly disregarded. Such judgment may be assailed any time, either directly or collaterally, by means of a separate action or by resisting such judgment in any action or proceeding whenever it is invoked. It is not necessary to take any step to vacate or avoid a void judgment; it may simply be ignored.")

[29] Islamic Da'Wah Council of the Philippines v. Court of Appeals, G.R. No. 80892, September 29, 1989, 178 SCRA 178, 186.

[30] Vide National Housing Authority v. Evangelista, G.R. No. 140945, May 16, 2005, 458 SCRA 469; Orbeta v.

Sendiong, G.R. No. 155236, July 8, 2005, 463 SCRA 180; Arcelona v. Court of Appeals, G.R. No. 102900, October 2, 1997, 280 SCRA 20.

[31] G.R. No. 140945, May 16, 2005, 458 SCRA 469.

[32] Id. at 479.

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