

DIONISIA MONIS LAGUNILLA AND RAFAEL MONIS, PETITIONERS, VS. ANDREA MONIS VELASCO AND MACARIA MONIS, RESPONDENTS.

G.R. No. 169276. June 16, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

For review is the Court of Appeals (CA) Decision[1] dated July 13, 2005 in CA-G.R. CV No. 56998 affirming with modification the Regional Trial Court (RTC) Decision[2] dated April 24, 1997 in Civil Case No. 466 for Annulment of Documents and Damages.

The facts, as culled from the records, are as follows:

Rev. Fr. Patricio (Patricio), Magdalena Catalina (Magdalena), Venancio, and respondent Macaria, all surnamed Monis, as well as respondent Andrea Monis - Velasco (Andrea), are siblings. Venancio is the father of petitioners Dionisia Monis Lagunilla and Rafael Monis. During their lifetime, Patricio and Magdalena acquired several properties which included several parcels of land in the province of La Union and another one situated in Quezon City, with an area of 208.35 sq. m. (otherwise known as the Quezon City property).[3] The Quezon City property was co-owned by Patricio and Magdalena, together with Andrea and Pedro Velasco.

After the death of Patricio and Magdalena, or on February 24, 1993, Andrea and Macaria (to the exclusion of Venancio's children) executed a Deed of Extrajudicial Settlement with Donation[4] (hereinafter referred to as the subject Deed) involving the Quezon City property, and donated the same to Andrea's son, Pedro Monis Velasco, Jr. (Pedro). By virtue of said Deed, Transfer Certificate of Title (TCT) No. RT-60455 (190472)[5] was cancelled and a new one (TCT No. 85837) was issued in the name of Pedro.[6]

On June 1, 1993, petitioners instituted an action for Annulment of Documents and Damages[7] before the Regional Trial Court (RTC) of Balaoan, La Union against respondents. The case was raffled to Branch 34 and was docketed as Civil Case No. 466. In their complaint, petitioners sought the annulment of the subject Deed, allegedly because of the fraudulent act committed by respondents in executing the same. They claimed that respondents misrepresented that they were the only surviving heirs of Patricio and Magdalena when, in fact, they (petitioners) were also surviving heirs by virtue of their right to represent their deceased father Venancio. In short, being Patricio and Magdalena's nephew and niece, they were asserting their rights, as co-heirs, to the Quezon City property. Respondents' fraudulent act was, according to petitioners, a ground for the annulment of the subject Deed. As a consequence of the nullity of the extrajudicial settlement, they further sought the cancellation of the title and tax declarations issued pursuant thereto, in the name of Pedro.

Respondents countered that nowhere in the subject Deed did they assert to be the only surviving heirs of Patricio and Magdalena. Admittedly, however, they claimed to be the only legitimate sisters of the deceased. They added that annulment of the Deed was not tenable, considering that petitioners already received advances on their share of the properties of the decedent; besides, there were other properties that had not been the subject of partition from which they could obtain reparation, if they are so entitled. Contrary to petitioners' claim, respondents

insisted that there was no way that the subject Deed could be annulled in the absence of any valid ground to rely on.[8]

No amicable settlement was reached during the pre-trial; thus, trial on the merits ensued.

After petitioners rested their case, they moved for the amendment of the complaint to implead additional party and to conform to the evidence presented.[9] Petitioners averred that the resolution of the case would affect the interest of Pedro as donee; hence, he is an indispensable party. The RTC, however, denied the motion, as the amendment of the complaint would result in the introduction of a different cause of action prejudicial to respondents. The court further held that the amendment of the complaint would unduly delay the resolution of the case.

On April 24, 1997, the RTC decided in favor of respondents, disposing, as follows:

WHEREFORE, taken in the above light, the Court hereby orders the case DISMISSED and further orders the plaintiffs to pay the defendants jointly and severally the following, thus:

- 1) P100,000.00 as moral damages;
- 2) P50,000.00 as exemplary damages;
- 3) P100,000.00 as attorney's fees; and
- 4) To pay the costs of this suit.

SO ORDERED.[10]

Applying Article 887 of the Civil Code, the RTC ruled that petitioners are not compulsory heirs; thus, they could not invoke bad faith as a ground to rescind the subject Deed. As to respondents' declaration that they were the only surviving heirs of the decedents, the trial court said that it was, in a way, a non-recognition of petitioners' claim that they, too, are heirs. The court, likewise, gave credence to respondents' claim that petitioners had previously received advances on their share of the inheritance. As to the remedy of rescission, the court declared that it was not available in the instant case because of the existence of other remedies that may be availed of by petitioners, considering that there were other properties from which they could obtain reparation, assuming they are entitled.[11]

On appeal to the Court of Appeals, the appellate court affirmed with modification the trial court's decision, viz.:

WHEREFORE, premises considered, the assailed decision dated April 24, 1997 of the Regional Trial Court of Balao[a]n, La Union in Civil Case No. 466 is hereby AFFIRMED with MODIFICATION, in that the award of exemplary damages and attorney's fees is deleted. No pronouncement as to costs.

SO ORDERED.[12]

The appellate court made a definitive conclusion that petitioners, together with respondents, are heirs of Macaria and Patricio. However, considering that petitioners are not compulsory heirs, it agreed with the RTC that they could not use "bad faith" as a ground to rescind the contract as provided for in Article 1104 of the New Civil Code. The appellate court also agreed with the trial court that bad faith on the part of respondents was wanting. While recognizing the doctrine that the subject Deed was not binding on petitioners because they did not participate therein, the appellate court refused to annul the contract on the basis thereof, in view of the existence of other properties previously received by petitioners and those that may still be the subject of partition. The court further denied the prayer to annul the donation made in favor of Pedro, inasmuch as it was belatedly raised by petitioners.[13] The appellate court likewise found the deletion of the award of exemplary damages and attorney's fees proper.[14]

Unsatisfied, petitioners come to this Court in this petition for review on certiorari raising the following issues:

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND MANIFESTLY OVERLOOKED RELEVANT FACTS NOT DISPUTED AND WHICH IF PROPERLY CONSIDERED WOULD JUSTIFY A DIFFERENT CONCLUSION THAT THERE IS FRAUD OR BAD FAITH ON THE PART OF DEFENDANTS-APPELLEES IN EXCLUDING PLAINTIFFS-APPELLANTS FROM THE DEED OF EXTRA JUDICIAL SETTLEMENT WITH DONATION.
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN CONCLUDING THAT "THE MERE ACT OF REPUDIATING THE INTEREST OF A CO-OWNER IS NOT SUFFICIENT TO SUPPORT A FINDING OF BAD FAITH SINCE NO BAD FAITH CAN BE ATTRIBUTED TO A PERSON WHO ONLY EXERCISES A PRIVILEGE GRANTED BY LAW."
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN CONCLUDING THAT THERE IS ABSENCE OF FRAUD OR BAD FAITH ON THE PART OF DEFENDANTS-APPELLEES IN EXCLUDING PLAINTIFFS-APPELLANTS IN THE EXTRA JUDICIAL SETTLEMENT BASED ON AN INFERENCE THAT IS MANIFESTLY MISTAKEN THAT PLAINTIFFS-APPELLANTS HAVE ALREADY OBTAINED THEIR ADVANCE OF INHERITANCE FROM THE DECEDENTS.
- WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW AND GRAVE ABUSE OF DISCRETION IN CONCLUDING THAT THE ASSAILED EXTRAJUDICIAL SETTLEMENT CANNOT BE ANNULLED SINCE THE MISREPRESENTATION IS NOT SO GRAVE IN CHARACTER AS TO AMOUNT TO BAD FAITH (AND) RULE 74, SECTION 1, SECOND PARAGRAPH, DOES NOT DISCOUNT THE POSSIBILITY THAT SOME HEIRS MAY HAVE BEEN EXCLUDED IN THE EXECUTION OF THE EXTRAJUDICIAL SETTLEMENT.
- WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO AN ERROR OF LAW IN CONCLUDING THAT THE DEED OF EXTRAJUDICIAL SETTLEMENT WITH DONATION CANNOT BE ANNULLED.
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING MORAL DAMAGES DESPITE FINDING THAT THE SUIT WAS MADE IN GOOD FAITH.
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT THAT THE MOTION TO AMEND COMPLAINT TO IMPLEAD ADDITIONAL PARTY AND TO CONFORM TO THE EVIDENCE PRESENTED FILED BY THE PLAINTIFFS-APPELLANTS IS NOT PROPER.[15]

In fine, petitioners challenge the appellate court's conclusions on the validity of the extrajudicial settlement with donation and the denial of the motion to amend the complaint to implead an indispensable party and conform to the evidence presented.

Much as we would like to make a definitive conclusion on the respective rights of all the parties and decide, once and for all, their interests over the subject property, we are barred by a jurisdictional issue.

Jurisdiction is the power invested in courts for administering justice, that is, to hear and decide cases. For the court to exercise the authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties.[16]

Courts acquire jurisdiction over a party plaintiff upon the filing of the complaint. On the other hand, jurisdiction over the person of a party defendant is assured upon the service of summons in the manner required by law or,

otherwise, by his voluntary appearance. As a rule, if a defendant has not been summoned, the court acquires no jurisdiction over his person, and a personal judgment rendered against such defendant is null and void. A decision that is null and void for want of jurisdiction of the trial court is not a decision in contemplation of law and can never become final and executory.[17]

Corollary to the issue of jurisdiction, and equally important, is the mandatory rule on joinder of indispensable parties set forth in Section 7, Rule 3 of the Rules of Court, to wit:

SEC. 7. Compulsory joinder of indispensable parties. - Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

The general rule with reference to parties to a civil action requires the joinder of all necessary parties, where possible, and the joinder of all indispensable parties under any and all conditions.[18] The evident intent of the Rules on the joinder of indispensable and necessary parties is the complete determination of all possible issues, not only between the parties themselves but also as regards other persons who may be affected by the judgment.[19]

In this case, petitioners challenge the denial of their motion to amend the complaint to implead Pedro who, they claim, is an indispensable party to the case. We are, therefore, compelled to address this important question.

In *Regner v. Logarta*[20] and *Arcelona v. CA*,[21] we laid down the test to determine if a party is an indispensable party, viz.:

An indispensable party is a party who has an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them. Also, a person is not an indispensable party if his presence would merely permit complete relief between him and those already parties to the action, or if he has no interest in the subject matter of the action. It is not a sufficient reason to declare a person to be an indispensable party that his presence will avoid multiple litigation.[22]

In upholding the denial of the motion to amend the complaint, the appellate court concluded that the sole desire of petitioners in instituting the case was the annulment of the extrajudicial settlement. Effectively, it separated the question of the validity of the extrajudicial settlement from the validity of the donation. Accordingly, the court said, the latter issue could be threshed out in a separate proceeding later. This explains why Pedro was not considered an indispensable party by the trial and appellate courts.

We beg to differ.

Even without having to scrutinize the records, a mere reading of the assailed decision readily reveals that Pedro is an indispensable party. At the time of the filing of the complaint, the title to the Quezon City property was already registered in the name of Pedro, after TCT No. 60455 (190472) in the names of Pedro Velasco, Andrea, Magdalena and Patricio Monis was cancelled, pursuant to the extrajudicial settlement with donation executed by respondents. The central thrust of the complaint was that respondents, by themselves, could not have transferred

the Quezon City property to Pedro because petitioners, as heirs of Patricio and Magdalena, also have rights over it. Accordingly, petitioners specifically prayed that the extrajudicial settlement with donation be annulled and the transfer certificate of title and tax declarations (in the name of Pedro) issued pursuant thereto be canceled. The pertinent portion of the complaint is quoted for easy reference:

WHEREFORE, in view of the foregoing, it is respectfully prayed that judgment be rendered as follows -

- By ordering the annulment of Annex "A" hereof as well as the cancellation of transfer certificate of title and tax declarations issued pursuant thereto.[23]

If such prayer and thrust were to be denied (as held by the trial and appellate courts), the problem would be less obvious, as the status quo would be maintained. However, if they were to be upheld, Pedro's title to the property would undoubtedly be directly and injuriously affected. Even if we only resolve the validity of the extrajudicial settlement, there would be no final adjudication of the case without involving Pedro's interest.

Verily, Pedro's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with that of the other parties. His legal presence as a party to the proceedings is, therefore, an absolute necessity.[24] His interest in the controversy and in the subject matter is not separable from the interest of the other parties.

It is unfortunate that petitioners failed to implead Pedro as defendant in their complaint. Interestingly, however, they realized such mistake, albeit belatedly, and thus sought the amendment of the complaint to join him as a defendant, but the RTC refused to grant the same.

Well-settled is the rule that joinder of indispensable parties is mandatory.[25] It is a condition sine qua non to the exercise of judicial power.[26] The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[27] Without the presence of indispensable parties to the suit, the judgment of the court cannot attain finality.[28] One who is not a party to a case is not bound by any decision of the court; otherwise, he will be deprived of his right to due process.[29] That is why the case is generally remanded to the court of origin for further proceedings.[30]

In light of these premises, no final ruling can be had on the validity of the extrajudicial settlement. While we wish to abide by the mandate on speedy disposition of cases, we cannot render a premature judgment on the merits. To do so could result in a possible violation of due process. The inclusion of Pedro is necessary for the effective and complete resolution of the case and in order to accord all parties the benefit of due process and fair play.[31]

Nevertheless, as enunciated in *Commissioner Domingo v. Scheer*,[32] *Lotte Phil. Co., Inc. v. Dela Cruz*,[33] and *PepsiCo, Inc. v. Emerald Pizza, Inc.*,[34] the non-joinder of indispensable parties is not a ground for the dismissal of an action. The remedy is to implead the non-party claimed to be indispensable. Parties may be added by order of the court on motion of the party or on its own initiative at any stage of the action and/or at such times as are just. If the plaintiff refuses to implead an indispensable party despite the order of the court, then the court may dismiss the complaint for the plaintiff's failure to comply with a lawful court order.

In light of the foregoing, a remand of the case to the trial court is imperative.

WHEREFORE, the Decision of the Court of Appeals dated July 13, 2005 in CA-G.R. CV No. 56998 is SET ASIDE. Let the case be REMANDED to the Regional Trial Court for the inclusion of Pedro Velasco, Jr. as an indispensable party, and for further proceedings.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Danilo B. Pine and Arcangelita Romilla Lontok, concurring; rollo, pp. 44-64.

[2] Penned by Judge Senecio O. Tan, CA rollo, pp. 71-81.

[3] Rollo, p. 45.

[4] Exhibit "A"; records, pp. 158-160.

[5] Registered under the names of Pedro Velasco, Andrea, Magdalena and Patricio Monis; records, p. 161.

[6] Records, p. 163.

[7] Id. at 1-3.

[8] Id. at 19-26.

[9] Id. at 233-239.

[10] CA rollo, p. 81.

[11] Id. at 71-81.

[12] Rollo, p. 64.

[13] The appellate court noted that petitioners moved to amend their complaint, but the same was rejected by the RTC because such motion was made only after they rested their case. In seeking to amend their complaint, petitioners were in effect raising a new issue (that is, the validity of the donation) not raised in the original complaint; and impleading new defendant (Pedro).

[14] Rollo, pp. 44-64.

[15] Id. at 23-25.

[16] *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation*, G.R. No. 172242, August 14, 2007, 530 SCRA 170, 186.

[17] *Arcelona v. CA*, 345 Phil. 250, 267 (1997).

[18] *Regner v. Logarta*, G.R. No. 168747, October 19, 2007, 537 SCRA 277, 289; *Arcelona v. CA*, id.

[19] *Moldes v. Villanueva*, G.R. No. 161955, August 31, 2005, 468 SCRA 697, 708.

[20] *Supra*.

[21] *Supra*.

[22] *Regner v. Logarta*, *supra* at 291; *Arcelona v. CA*, *supra*, at 269-270.

[23] Records, p. 2.

[24] *Regner v. Logarta*, *supra* note 18, at 291-292.

[25] *Moldes v. Villanueva*, *supra* note 19, at 708.

[26] Orbeta v. Sendiong, G.R. No. 155236, July 8, 2005, 463 SCRA 180, 192; Aron v. Realon, G.R. No. 159156, January 31, 2005, 450 SCRA 372, 389.

[27] Orbeta v. Sendiong, *supra*.

[28] Moldes v. Villanueva, *supra*.

[29] Aron v. Realon, *supra*.

[30] Moldex Realty, Inc. v. Housing and Land Use Regulatory Board, G.R. No. 149719, June 21, 2007, 525 SCRA 198, 208; see Speed Distributing Corp. v. Court of Appeals, 469 Phil. 739 (2004).

[31] PepsiCo, Inc. v. Emerald Pizza, Inc., G.R. No. 153059, August 14, 2007, 530 SCRA 58, 67.

[32] 466 Phil. 235.

[33] G.R. No. 166302, July 28, 2005, 464 SCRA 591.

[34] *Supra*.

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