

APOLONIA BANAYAD FRIANELA, PETITIONER, VS. SERVILLANO BANAYAD, JR., RESPONDENT.

G.R. No. 169700. July 30, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before the court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the June 17, 2005 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 53929, and the August 17, 2005 Resolution[2] denying the motion for partial reconsideration thereof.

Narrated in brief are the antecedent facts and proceedings, to wit:

Following the death of her uncle, the testator Moises F. Banayad, petitioner, who was named as devisee in the will, filed before the Regional Trial Court (RTC) of Pasay City, on June 3, 1991, Sp. Proc. No. 3664-P[3] for the allowance of the November 18, 1985 holographic will of the decedent. Petitioner alleged that Moises died without issue and left to her the following properties, namely: (1) a parcel of land situated in Pasay City and described in Transfer Certificate of Title No. 9741; (2) images of Oracion del Huerto and Pieta including the crown; and (3) all personal belongings.[4]

Respondent, a cousin of the petitioner, filed his opposition and counter-petitioned for the allowance of two other holographic wills of the decedent, one dated September 27, 1989 and another dated September 28, 1989.[5]

After trial on the merits, the RTC, on September 29, 1995, rendered its Decision[6] declaring the September 27, 1989 holographic will as having revoked the November 18, 1985 will, allowing the former, and appointing respondent as administrator of Moises's estate.[7]

On appeal, the CA, in the assailed June 17, 2005 Decision,[8] modified the decision of the trial court and ruled that the September 27, 1989 holographic will had only revoked the November 18, 1985 will insofar as the testamentary disposition of Moises's real property was concerned.[9]

With the denial of her motion for reconsideration in the further assailed August 17, 2005 Resolution,[10] petitioner elevated the case before us via the instant petition.[11]

The Court notes that the trial court focused all of its attention on the merits of the case without first determining whether it could have validly exercised jurisdiction to hear and decide Sp. Proc. No. 3664-P. On appeal, the appellate court also overlooked the issue on the jurisdictional competence of the trial court over the said case. This Court, after a meticulous review of the records, finds that the RTC of Pasay City had no jurisdiction over the subject matter in Sp. Proc. No. 3664-P.

The jurisdiction of the court to hear and decide a case is conferred by the law in force at the time of the institution of the action unless such statute provides for a retroactive application thereof.[12] Jurisdiction is moreover determined by the allegations or averments in the complaint or petition.[13]

In this case, at the time the petition for the allowance of Moises's holographic will was instituted, the then Sections 19 and 33[14] of Batas Pambansa (B.P.) Blg. 129[15] were in force, thus--

SECTION 19. Jurisdiction in civil cases. -- Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x x

(4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds twenty thousand pesos (P20,000.00);

x x x x

SECTION 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases. -- Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the demand does not exceed twenty thousand pesos exclusive of interest and costs but inclusive of damages of whatever kind, the amount of which must be specifically alleged: Provided, That where there are several claims or causes of action between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action irrespective of whether the causes of action arose out of the same or different transactions; and

x x x x

The applicable law, therefore, confers jurisdiction on the RTC or the MTCs over probate proceedings depending on the gross value of the estate,[16] which value must be alleged in the complaint or petition to be filed. Significantly, in this case, the original petition docketed before the trial court contains only the following averments:

x x x x

1. That Petitioner is of legal age, married, Filipino and residing at 2237 P. Burgos St., Pasay City who is named devisee in the Last Will and Testament of MOISES BANAYAD, deceased who died in Pasay City General Hospital on March 27, 1991 xerox copy of his death certificate is herewith attached as Annex "A" to form integral part hereof;

2. That the said Last Will and Testament is herewith (sic) attached as Annex "B" and made an integral part of this Petition, the original thereof will be presented to this Honorable Court at the time of probate;

3. That the decedent is an inhabitant of the Philippines and residing at 2237 P. Burgos St., Pasay City at the time of his death;

4. That the properties left by the decedent consist of real and personal properties particularly described herein below, which decedent all bequeathed to petitioner;

- A parcel of land described under TCT No. 9741 xerox copy of which is herewith (sic) attached as Annex "C".

- Imahen ng Oracion del Huerto at Pieta, kasama and korona.

- All personal belongings.

5. That the testator at the time of the execution of the said Will was of sound and disposing mind.

WHEREFORE, it is most respectfully prayed of the Honorable Court that:

- a. Upon proper notice and hearing, the above mentioned Will be admitted to probate;
- b. That letters testamentary or administration be issued to herein petitioner without bond;

Petitioner prays for such other reliefs just and equitable in (sic) the premises.

x x x x[17]

Nowhere in the petition is there a statement of the gross value of Moises's estate. Thus, from a reading of the original petition filed, it cannot be determined which court has original and exclusive jurisdiction over the proceedings.[18] The RTC therefore committed gross error when it had perfunctorily assumed jurisdiction despite the fact that the initiatory pleading filed before it did not call for the exercise of its jurisdiction. The RTC should have, at the outset, dismissed the case for lack of jurisdiction. Be it noted that the dismissal on the said ground may be ordered *motu proprio* by the courts.[19] Further, the CA, on appeal, should have dismissed the case on the same ground. Settled is the doctrine that the issue of jurisdiction may be raised by any of the parties or may be reckoned by the court, at any stage of the proceedings, even on appeal, and is not lost by waiver or by estoppel.[20]

Despite the pendency of this case for around 18 years, the exception laid down in *Tijam v. Sibonghanoy*[21] and clarified recently in *Figueroa v. People*[22] cannot be applied. First, because, as a general rule, the principle of estoppel by laches cannot lie against the government.[23] No injustice to the parties or to any third person will be wrought by the ruling that the trial court has no jurisdiction over the instituted probate proceedings.

Second and most important, because in *Tijam*, the delayed invocation of lack of jurisdiction has been made during the execution stage of a final and executory ruling of a court. In *Figueroa*, the Court has emphasized that estoppel by laches only supervenes in exceptional cases similar to the factual milieu in *Tijam*. It is well to note the following factual setting of *Tijam*:

On July 19, 1948 -- barely one month after the effectivity of Republic Act No. 296 known as the Judiciary Act of 1948 -- the spouses Serafin Tijam and Felicitas Tagalog commenced Civil Case No. R-660 in the Court of First Instance of Cebu against the spouses Magdaleno Sibonghanoy and Lucia Baguio to recover from them the sum of P1,908.00, with legal interest thereon from the date of the filing of the complaint until the whole obligation is paid, plus costs. As prayed for in the complaint, a writ of attachment was issued by the court against defendants' properties, but the same was soon dissolved upon the filing of a counter-bond by defendants and the Manila Surety and Fidelity Co., Inc. hereinafter referred to as the Surety, on the 31st of the same month.

After being duly served with summons the defendants filed their answer in which, after making some admissions and denials of the material averments of the complaint, they interposed a counterclaim. This counterclaim was answered by the plaintiffs.

After trial upon the issues thus joined, the Court rendered judgment in favor of the plaintiffs and, after the same had become final and executory, upon motion of the latter, the Court issued a writ of execution against the defendants. The writ having been returned unsatisfied, the plaintiffs moved for the issuance of a writ of execution against the Surety's bond (Rec. on Appeal pp. 46-49), against which the Surety filed a written opposition (Id. pp. 49) upon two grounds, namely, (1) Failure to prosecute and (2) Absence of a demand upon the Surety for the payment of the amount due under the judgment. Upon these grounds the Surety prayed the Court not only to deny the motion for execution against its counter-bond but also the following affirmative relief: "to relieve the herein bonding company of its liability, if any, under the bond in question" (Id. p. 54) The Court denied this motion on the ground solely that no previous demand had been made on the Surety for the satisfaction of the judgment. Thereafter the necessary demand was made, and upon failure of the Surety to satisfy the judgment, the plaintiffs filed a second motion for execution against the counter-bond. On the date

set for the hearing thereon, the Court, upon motion of the Surety's counsel, granted the latter a period of five days within which to answer the motion. Upon its failure to file such answer, the Court granted the motion for execution and the corresponding writ was issued.

Subsequently, the Surety moved to quash the writ on the ground that the same was issued without the required summary hearing provided for in Section 17 of Rule 59 of the Rules of Court. As the Court denied the motion, the Surety appealed to the Court of Appeals from such order of denial and from the one denying its motion for reconsideration (Id. p. 97). Its record on appeal was then printed as required by the Rules, and in due time it filed its brief raising therein no other question but the ones covered by the following assignment of errors:

"I. That the Honorable Court a quo erred in issuing its order dated November 2, 1957, by holding the incident as submitted for resolution, without a summary hearing and compliance with the other mandatory requirements provided for in Section 17, Rule 59 of the Rules of Court.

"II. That the Honorable Court a quo erred in ordering the issuance of execution against the herein bonding company-appellant.

"III. That the Honorable Court a quo erred in denying the motion to quash the writ of execution filed by the herein bonding company- appellant as well as its subsequent motion for reconsideration, and/or in not quashing or setting aside the writ of execution."

Not one of the assignment of errors -- it is obvious raises the question of lack of jurisdiction, neither directly nor indirectly.

Although the appellees failed to file their brief, the Court of Appeals, on December 11, 1962, decided the case affirming the orders appealed from.

On January 8, 1963 -- five days after the Surety received notice of the decision, it filed a motion asking for extension of time within which to file a motion for reconsideration. The Court of Appeals granted the motion in its resolution of January 10 of the same year. Two days later the Surety filed a pleading entitled MOTION TO DISMISS, alleging substantially that appellees' action was filed in the Court of First Instance of Cebu on July 19, 1948 for the recovery of the sum of P1,908.00 only; that a month before that date Republic Act No. 296, otherwise known as the Judiciary Act of 1948, had already become effective, Section 88 of which placed within the original exclusive jurisdiction of inferior courts all civil actions where the value of the subject-matter or the amount of the demand does not exceed P2,000.00, exclusive of interest and costs; that the Court of First Instance therefore had no jurisdiction to try and decide the case. Upon these premises the Surety's motion prayed the Court of Appeals to set aside its decision and to dismiss the case. By resolution of January 16, 1963 the Court of Appeals required the appellees to answer the motion to dismiss, but they failed to do so. Whereupon, on May 20 of the same year, the Court resolved to set aside its decision and to certify the case to Us.

x x x[24]

Clearly, then, in Tijam, the issue of lack of jurisdiction has only been raised during the execution stage, specifically when the matter of the trial court's denial of the surety's motion to quash the writ of execution has been brought to the appellate court for review. Here, the trial court's assumption of unauthorized jurisdiction over the probate proceedings has been discovered by the Court during the appeal stage of the main case, not during the execution stage of a final and executory decision. Thus, the exceptional rule laid down in Tijam cannot apply.

Since the RTC has no jurisdiction over the action, all the proceedings therein, including the decision rendered, are null and void.[25] With the above disquisition, the Court finds it unnecessary to discuss and resolve the other issues raised in the petition.

IN THE LIGHT OF THE FOREGOING, Sp. Proc. No. 3664-P before the Regional Trial Court of Pasay City is DISMISSED for lack of jurisdiction.

SO ORDERED.

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

[1] Penned by Associate Justice Arturo D. Brion (now, of this Court), with Associate Justices Eugenio S. Labitoria and Eliezer R. De Los Santos concurring; CA rollo, pp. 145-166.

[2] Id. at 191-195.

[3] Records, p. 9.

[4] Id. at 9-10.

[5] Id. at 15-17.

[6] Id. at 263-267.

[7] The dispositive portion of the trial court's decision reads:

WHEREFORE, finding the holographic will of Moises F. Banayad executed on September 27, 1989 to be duly executed, that the testator at the time of the execution thereof was of sound and disposing mind, not acting under duress, menace or undue influence or fraud and that said will revoked the previous holographic will dated November 18, 1985, the aforesaid holographic will is hereby allowed.

Accordingly, let a certificate of allowance be issued and attached to the will dated September 27, 1989, the same to be filed and recorded by the Clerk of Court. Let letters testamentary with a copy of the will annexed thereto issue to Fr. Lino F. Banayad, to the children of Servillano F. Banayad, namely, Lucia B. Ongpauco and Servillano Banayad, Jr. and the children of Bonifacio F. Banayad, namely, Socorro B. Adame, Herman B. Banayad, Aurora B. Offalas (sic), Apolonia B. Frianela (sic), Reynaldo A. Banayad, Bonifacio A. Banayad, Jr., Emerenciana A. Banayad, Ma. Elena B. Amante and Zenaida B. Parcoero.

The oppositor counter-petitioner Servillano Banayad, Jr. is hereby appointed Administrator with the will annexed of Moises F. Banayad (sic); and that Letters of Administration with will annexed shall issue to said person upon taking the oath as required by law and for him to file a bond in the sum of TWENTY THOUSAND (P20,000.00) PESOS thru a reputable surety company.

The Administrator herein appointed is hereby required to deliver to this Court the original of the said holographic will within fifteen (15) days from notice hereof.

Let copies hereof be furnished the heirs and the Bureau of Internal Revenue.

SO ORDERED. (Id. at 266-267.)

[8] Supra note 1.

[9] The dispositive portion of the appellate court's decision reads:

WHEREFORE, premises considered, we hereby partially GRANT the appeal and accordingly MODIFY the appealed Decision. We RULE that the September 27, 1989 (sic) only revoked the November 18, 1985 will insofar as the testamentary disposition of Moises' real property is concerned. The wills dated November 18, 1985 and

September 27, 1989 are hereby ALLOWED, consistent with the modification discussed above. The lower court's other rulings are AFFIRMED.

SO ORDERED. (CA rollo, p. 165.)

[10] Supra note 2.

[11] In her memorandum, petitioner raised the following issues for the Court's resolution:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED WHEN IT DISREGARDED THE PROVISIONS OF ARTICLE 783 OF THE NEW CIVIL CODE AND FOUND THE WILL OF SEPTEMBER 27, 1989 VALID.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED CORRECTLY WHEN IT FAILED TO CONSIDER ARTICLE 799 OF THE NEW CIVIL CODE AND FOUND THE SEPTEMBER 27, 1989 WILL VALID DESPITE THE INCAPACITY OF MOISES BANAYAD TO EXECUTE THE SAME.

III.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED WITH PROPRIETY IN FINDING THE WILL OF SEPTEMBER 27, 1989 VALID NOTWITHSTANDING ITS NON-COMPLIANCE WITH THE PROVISIONS OF ARTICLES 804, 814 AND 812 OF THE NEW CIVIL CODE.

IV.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS MISAPPLIED ARTICLE 831 OF THE NEW CIVIL CODE WHEN IT DECLARED THAT THE SEPTEMBER 27, 1989 WILL REVOKED THE WILL DATED NOVEMBER 18, 1985 INsofar AS THE TESTAMENTARY DISPOSITION OF MOISES BANAYAD'S REAL PROPERTY IS CONCERNED.

V.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED WHEN IT FAILED TO APPLY ARTICLE 839(4) TO THE CASE AT BAR NOTWITHSTANDING THE FACT THAT THE WILL DATED SEPTEMBER 27, 1989 WAS PROCURED WITH UNDUE AND IMPROPER PRESSURE AND INFLUENCE.

VI.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE APPOINTMENT OF RESPONDENT SERVILLANO BANAYAD JR. AS ADMINISTRATOR OF MOISES BANAYAD'S ESTATE. (Rollo, pp. 160-161.)

[12] *Alarilla v. Sandiganbayan*, G.R. No. 136806, August 22, 2000, 393 Phil. 143, 155; *Escobal v. Justice Garchitorena*, G.R. No. 124644, February 5, 2004, 466 Phil. 625, 635.

[13] *Villacastin v. Pelaez*, G.R. No. 170478, May 22, 2008, 554 SCRA 189, 194.

[14] These provisions were amended by Republic Act No. 7691 entitled "An Act Expanding the Jurisdiction of

the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known as the `Judiciary Reorganization Act of 1980'," approved on March 25, 1994, and took effect on April 15, 1994, fifteen days after publication in the Malaya and in the Times Journal on March 30, 1994, pursuant to Section 8 thereof. In the amendatory law, the jurisdictional amounts were increased.

[15] Entitled "The Judiciary Reorganization Act of 1980," approved on August 14, 1981.

[16] *Lim v. Court of Appeals*, G.R. No. 124715, January 24, 2000, 380 Phil. 61, 70-71; see *Maloles II v. Phillips*, G.R. No. 129505, January 31, 2000, 324 SCRA 172; *RCBC v. Hon. Isnani, etc., et al.*, G.R. No. 117383, March 6, 1995, 312 Phil. 194.

[17] Records, pp. 9-10.

[18] See *Hilario v. Salvador*, G.R. No. 160384, April 29, 2005, 457 SCRA 815, 826.

[19] *Rosa J. Sales, Earl Ryan Cheng and Emil Ralph Cheng v. William Barro*, G.R. No. 171678, December 10, 2008.

[20] *Figueroa v. People*, G.R. No. 147406, July 14, 2008, 558 SCRA 63, 81.

[21] No. L-21450, April 15, 1968, 131 Phil. 556.

[22] *Supra* note 20; see *Vargas v. Caminas*, G.R. No. 137869, June 12, 2008, 554 SCRA 305.

[23] See however *Estate of the Late Jesus S. Yujuico v. Republic*, G.R. No. 168661, October 26, 2007, 537 SCRA 513, 530, in which the Court applied the equitable principle of estoppel by laches against the government to avoid an injustice to innocent purchasers for value of a land.

[24] *Tijam v. Sibonghanoy*, *supra* note 21, at 558-561.

[25] *Hilario v. Salvador*, *supra* note 18, at 829. See *Ancheta v. Guersey-Dalaygon*, G.R. No. 139868, June 8, 2006, 490 SCRA 140, 148; *Vda. de Kilayko v. Tengco*, G.R. No. 45425, March 27, 1992, 207 SCRA 600, 612, in which the Court declared that a final decree of distribution of the estate may even be set aside on the ground of lack of jurisdiction.

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