

NENITA GONZALES, SPOUSES GENEROSA GONZALES AND RODOLFO FERRER, SPOUSES FELIPE GONZALES AND CAROLINA SANTIAGO, SPOUSES LOLITA GONZALES AND GERMOGENES GARLITOS, SPOUSES DOLORES GO...

G.R. No. 173008. February 22, 2012

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this Petition for Review on Certiorari under Rule 45 is the Decision[1] of the Court of Appeals (CA) dated March 23, 2006 in CA-G.R. SP No. 91381 as well as the Resolution[2] dated June 2, 2006 dismissing petitioners' motion for reconsideration. The CA reversed and set aside the assailed Orders[3] of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 39, dated April 13, 2005 and August 8, 2005, respectively, in Civil Case No. 16815, denying the demurrer to evidence filed by herein respondents and instead dismissed petitioners' complaint.

The Facts

The deceased spouses Bartolome Ayad and Marcelina Tejada ("Spouses Ayad") had five (5) children: Enrico, Encarnacion, Consolacion, Maximiano and Mariano. The latter, who was single, predeceased his parents on December 4, 1943. Marcelina died in September 1950 followed by Bartolome much later on February 17, 1964.

Enrico has remained single. Encarnacion died on April 8, 1966 and is survived by her children, Nenita Gonzales, Generosa Gonzales, Felipe Gonzales, Lolita Gonzales, Dolores Gonzales, Conchita Gonzales and Beatriz Gonzales, the petitioners in this case. Consolacion, meanwhile, was married to the late Imigdio Bugaay. Their children are Mariano Bugaay, Alicia Bugaay, Amelita Bugaay, Rodolfo Bugaay, Letecia Bugaay, Lydia Bugaay, Luzviminda Bugaay and Belen Bugaay, respondents herein. Maximiano died single and without issue on August 20, 1986. The spouses of petitioners, except Nenita, a widow, and those of the respondents, except Lydia and Belen, were joined as parties in this case.

In their Amended Complaint[4] for Partition and Annulment of Documents with Damages dated February 5, 1991 against Enrico, Consolacion and the respondents, petitioners alleged, inter alia, that the only surviving children of the Spouses Ayad are Enrico and Consolacion, and that during the Spouses Ayad's lifetime, they owned several agricultural as well as residential properties.

Petitioners averred that in 1987, Enrico executed fraudulent documents covering all the properties owned by the Spouses Ayad in favor of Consolacion and respondents, completely disregarding their rights. Thus, they prayed, among others, for the partition of the Spouses Ayad's estate, the nullification of the documents executed by Enrico, and the award of actual, moral and exemplary damages, as well as attorney's fees.

As affirmative defenses[5], Enrico, Consolacion and respondents claimed that petitioners had long obtained their advance inheritance from the estate of the Spouses Ayad, and that the properties sought to be partitioned are now

individually titled in respondents' names.

After due proceedings, the RTC rendered a Decision[6] dated November 24, 1995, awarding one-fourth (¼) pro-indiviso share of the estate each to Enrico, Maximiano, Encarnacion and Consolacion as the heirs of the Spouses Ayad, excluding Mariano who predeceased them. It likewise declared the Deed of Extrajudicial Settlement and Partition executed by Enrico and respondents, as well as all other documents and muniments of title in their names, as null and void. It also directed the parties to submit a project of partition within 30 days from finality of the Decision.

On December, 13, 1995,[7] respondents filed a motion for reconsideration and/or new trial from the said Decision. On November 7, 1996, the RTC, through Judge Eugenio Ramos, issued an Order which reads: “in the event that within a period of one (1) month from today, they have not yet settled the case, it is understood that the motion for reconsideration and/or new trial is submitted for resolution without any further hearing.”[8]

Without resolving the foregoing motion, the RTC, noting the failure of the parties to submit a project of partition, issued a writ of execution[9] on February 17, 2003 giving them a period of 15 days within which to submit their nominees for commissioner, who will partition the subject estate.

Subsequently, the RTC, through then Acting Presiding Judge Emilio V. Angeles, discovered the pendency of the motion for reconsideration and/or new trial and set the same for hearing. In the Order[10] dated August 29, 2003, Judge Angeles granted respondents' motion for reconsideration and/or new trial for the specific “purpose of receiving and offering for admission the documents referred to by the [respondents].”[11]

However, instead of presenting the documents adverted to, consisting of the documents sought to be annulled, respondents demurred[12] to petitioners' evidence on December 6, 2004 which the RTC, this time through Presiding Judge Dionisio C. Sison, denied in the Order[13] dated April 13, 2005 as well as respondents' motion for reconsideration in the August 8, 2005 Order.[14]

Aggrieved, respondents elevated their case to the CA through a petition for certiorari, imputing grave abuse of discretion on the part of the RTC in denying their demurrer notwithstanding petitioners' failure to present the documents sought to be annulled. On March 23, 2006, the CA rendered the assailed Decision reversing and setting aside the Orders of the RTC disposing as follows:

“WHEREFORE, the instant petition is hereby GRANTED. Accordingly, the assailed Orders of the trial court dated April 13, 2006 and August 8, 2005 are hereby both SET ASIDE and in lieu thereof, another Order is hereby issued DISMISSING the Complaint, as amended.

No pronouncement as to costs.

SO ORDERED.”[15]

In dismissing the Amended Complaint, the appellate court ratiocinated in the following manner:

“In the light of the foregoing where no sufficient evidence was presented to grant the reliefs being prayed for in the complaint, more particularly the absence of the documents sought to be annulled as well as the properties sought to be partitioned, common sense dictates that the case should have been dismissed outright by the trial court to avoid unnecessary waste of time, money and efforts.”[16]

Subsequently, the CA denied petitioners' motion for reconsideration in its Resolution[17] dated June 2, 2006.

The Issues

In this petition for review, petitioners question whether the CA's dismissal of the Amended Complaint was in

accordance with law, rules of procedure and jurisprudence.

The Ruling of the Court

The RTC Orders assailed before the CA basically involved the propriety of filing a demurrer to evidence after a Decision had been rendered in the case.

Section 1, Rule 33 of the Rules of Court provides:

“SECTION 1. Demurrer to evidence. - After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied, he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal was reversed he shall be deemed to have waived the right to present evidence.”

The Court has previously explained the nature of a demurrer to evidence in the case of *Celino v. Heirs of Alejo and Teresa Santiago*[18] as follows:

“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. 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. The evidence contemplated by the rule on demurrer is that which pertains to the merits of the case.”

In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the judgment.[19] Being considered a motion to dismiss, thus, a demurrer to evidence must clearly be filed before the court renders its judgment.

In this case, respondents demurred to petitioners' evidence after the RTC promulgated its Decision. While respondents' motion for reconsideration and/or new trial was granted, it was for the sole purpose of receiving and offering for admission the documents not presented at the trial. As respondents never complied with the directive but instead filed a demurrer to evidence, their motion should be deemed abandoned. Consequently, the RTC's original Decision stands.

Accordingly, the CA committed reversible error in granting the demurrer and dismissing the Amended Complaint a quo for insufficiency of evidence. The demurrer to evidence was clearly no longer an available remedy to respondents and should not have been granted, as the RTC had correctly done.

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the CA are SET ASIDE and the Orders of the RTC denying respondents' demurrer are REINSTATED. The Decision of the RTC dated November 24, 1995 STANDS.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Arturo G. Tayag and concurred in by Associate Justices Jose L. Sabio, Jr. and Noel G. Tijam; Rollo, pp. 29-42.

[2] Rollo, pp. 44-49.

[3] *Id.*, pp. 82-83.

- [4] *Id.*, pp. 52-67.
- [5] *Id.*, pp. 69-70.
- [6] *Id.*, pp. 72-79.
- [7] CA rollo, pp. 65-66.
- [8] *Supra* note 1, at p. 34, last paragraph.
- [9] Rollo, pp. 80-81.
- [10] CA rollo, Order dated August 29, 2003, pp. 79-80.
- [11] *Supra* note 1, at p. 35, 3rd paragraph.
- [12] CA rollo, pp. 81-82.
- [13] Rollo, p. 82.
- [14] *Id.*, p. 83.
- [15] *Supra* note 1, at p. 42.
- [16] *Id.*, p. 41.
- [17] *Supra* note 2.
- [18] G.R. No. 161817, July 30, 2004, 435 SCRA 690, 693, italics ours.
- [19] *Choa v. Choa*, G.R. No. 143376, November 26, 2002, 392 SCRA 641, 648.

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