

NILO OROPESA, PETITIONER, VS. CIRILO OROPESA, RESPONDENT.*G.R. No. 184528. April 25, 2012*

Ponente: LEONARDO-DE CASTRO, J.

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This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure of the Decision[1] dated February 29, 2008, as well as the Resolution[2] dated September 16, 2008, both rendered by the Court of Appeals in CA-G.R. CV No. 88449, entitled “NILO OROPESA vs. CIRILO OROPESA.” The Court of Appeals’ issuances affirmed the Order[3] dated September 27, 2006 and the Order[4] dated November 14, 2006 issued by the Regional Trial Court (RTC) of Parañaque City, Branch 260 in SP. Proc. Case No. 04-0016, which dismissed petitioner Nilo Oropesa’s petition for guardianship over the properties of his father, respondent Cirilo Oropesa (a widower), and denied petitioner’s motion for reconsideration thereof, respectively.

The facts of this case, as summed in the assailed Decision, follow:

On January 23, 2004, the (petitioner) filed with the Regional Trial Court of Parañaque City, a petition for him and a certain Ms. Louie Ginez to be appointed as guardians over the property of his father, the (respondent) Cirilo Oropesa. The case was docketed as SP Proc. No. 04-0016 and raffled off to Branch 260.

In the said petition, it is alleged among others that the (respondent) has been afflicted with several maladies and has been sickly for over ten (10) years already having suffered a stroke on April 1, 2003 and June 1, 2003, that his judgment and memory [were] impaired and such has been evident after his hospitalization; that even before his stroke, the (respondent) was observed to have had lapses in memory and judgment, showing signs of failure to manage his property properly; that due to his age and medical condition, he cannot, without outside aid, manage his property wisely, and has become an easy prey for deceit and exploitation by people around him, particularly Ms. Ma. Luisa Agamata, his girlfriend.

In an Order dated January 29, 2004, the presiding judge of the court a quo set the case for hearing, and directed the court social worker to conduct a social case study and submit a report thereon.

Pursuant to the abovementioned order, the Court Social Worker conducted her social case study, interviewing the (petitioner) and his witnesses. The Court Social Worker subsequently submitted her report but without any finding on the (respondent) who refused to see and talk to the social worker.

On July 6, 2004, the (respondent) filed his Opposition to the petition for guardianship. On August 3, 2004, the (respondent) filed his Supplemental Opposition.

Thereafter, the (petitioner) presented his evidence which consists of his testimony, and that of his sister Gianina Oropesa Bennett, and the (respondent’s) former nurse, Ms. Alma Altaya.

After presenting evidence, the (petitioner) filed a manifestation dated May 29, 2006 resting his case. The (petitioner) failed to file his written formal offer of evidence.

Thus, the (respondent) filed his “Omnibus Motion (1) to Declare the petitioner to have waived the presentation of his Offer of Exhibits and the presentation of his Evidence Closed since they were not formally offered; (2)

To Expunge the Documents of the Petitioner from the Record; and (3) To Grant leave to the Oppositor to File Demurrer to Evidence.

In an Order dated July 14, 2006, the court a quo granted the (respondent's) Omnibus Motion. Thereafter, the (respondent) then filed his Demurrer to Evidence dated July 23, 2006.[5] (Citations omitted.)

The trial court granted respondent's demurrer to evidence in an Order dated September 27, 2006. The dispositive portion of which reads:

WHEREFORE, considering that the petitioner has failed to provide sufficient evidence to establish that Gen. Cirilo O. Oropesa is incompetent to run his personal affairs and to administer his properties, Oppositor's Demurrer to Evidence is GRANTED, and the case is DISMISSED.[6]

Petitioner moved for reconsideration but this was denied by the trial court in an Order dated November 14, 2006, the dispositive portion of which states:

WHEREFORE, considering that the Court record shows that petitioner-movant has failed to provide sufficient documentary and testimonial evidence to establish that Gen. Cirilo Oropesa is incompetent to run his personal affairs and to administer his properties, the Court hereby affirms its earlier Order dated 27 September 2006.

Accordingly, petitioner's Motion for Reconsideration is DENIED for lack of merit.[7]

Unperturbed, petitioner elevated the case to the Court of Appeals but his appeal was dismissed through the now assailed Decision dated February 29, 2008, the dispositive portion of which reads:

WHEREFORE, premises considered the instant appeal is DISMISSED. The assailed orders of the court a quo dated September 27, 2006 and November 14, 2006 are AFFIRMED.[8]

A motion for reconsideration was filed by petitioner but this was denied by the Court of Appeals in the similarly assailed Resolution dated September 16, 2008. Hence, the instant petition was filed.

Petitioner submits the following question for consideration by this Court:

WHETHER RESPONDENT IS CONSIDERED AN "INCOMPETENT" PERSON AS DEFINED UNDER SECTION 2, RULE 92 OF THE RULES OF COURT WHO SHOULD BE PLACED UNDER GUARDIANSHIP[9]

After considering the evidence and pleadings on record, we find the petition to be without merit.

Petitioner comes before the Court arguing that the assailed rulings of the Court of Appeals should be set aside as it allegedly committed grave and reversible error when it affirmed the erroneous decision of the trial court which purportedly disregarded the overwhelming evidence presented by him showing respondent's incompetence.

In *Francisco v. Court of Appeals*,[10] we laid out the nature and purpose of guardianship in the following wise:

A guardianship is a trust relation of the most sacred character, in which one person, called a "guardian" acts for another called the "ward" whom the law regards as incapable of managing his own affairs. A guardianship is designed to further the ward's well-being, not that of the guardian. It is intended to preserve the ward's property, as well as to render any assistance that the ward may personally require. It has been stated that while custody involves immediate care and control, guardianship indicates not only those responsibilities, but those of one in loco parentis as well.[11]

In a guardianship proceeding, a court may appoint a qualified guardian if the prospective ward is proven to be a minor or an incompetent.

A reading of Section 2, Rule 92 of the Rules of Court tells us that persons who, though of sound mind but by

reason of age, disease, weak mind or other similar causes, are incapable of taking care of themselves and their property without outside aid are considered as incompetents who may properly be placed under guardianship. The full text of the said provision reads:

Sec. 2. Meaning of the word “incompetent.” – Under this rule, the word “incompetent” includes persons suffering the penalty of civil interdiction or who are hospitalized lepers, prodigals, deaf and dumb who are unable to read and write, those who are of unsound mind, even though they have lucid intervals, and persons not being of unsound mind, but by reason of age, disease, weak mind, and other similar causes, cannot, without outside aid, take care of themselves and manage their property, becoming thereby an easy prey for deceit and exploitation.

We have held in the past that a “finding that a person is incompetent should be anchored on clear, positive and definite evidence.”[12] We consider that evidentiary standard unchanged and, thus, must be applied in the case at bar.

In support of his contention that respondent is incompetent and, therefore, should be placed in guardianship, petitioner raises in his Memorandum[13] the following factual matters:

- Respondent has been afflicted with several maladies and has been sickly for over ten (10) years already;
- During the time that respondent was hospitalized at the St. Luke’s Medical Center after his stroke, he purportedly requested one of his former colleagues who was visiting him to file a loan application with the Armed Forces of the Philippines Savings and Loan Association, Inc. (AFPSLAI) for payment of his hospital bills, when, as far as his children knew, he had substantial amounts of money in various banks sufficient to cover his medical expenses;
- Respondent’s residence allegedly has been left dilapidated due to lack of care and management;
- The realty taxes for respondent’s various properties remain unpaid and therefore petitioner and his sister were supposedly compelled to pay the necessary taxes;
- Respondent allegedly instructed petitioner to sell his Nissan Exalta car for the reason that the former would be purchasing another vehicle, but when the car had been sold, respondent did not procure another vehicle and refused to account for the money earned from the sale of the old car;
- Respondent withdrew at least \$75,000.00 from a joint account under his name and his daughter’s without the latter’s knowledge or consent;
- There was purportedly one occasion where respondent took a kitchen knife to stab himself upon the “orders” of his girlfriend during one of their fights;
- Respondent continuously allows his girlfriend to ransack his house of groceries and furniture, despite protests from his children.[14]

Respondent denied the allegations made by petitioner and cited petitioner’s lack of material evidence to support his claims. According to respondent, petitioner did not present any relevant documentary or testimonial evidence that would attest to the veracity of his assertion that respondent is incompetent largely due to his alleged deteriorating medical and mental condition. In fact, respondent points out that the only medical document presented by petitioner proves that he is indeed competent to run his personal affairs and administer his properties. Portions of the said document, entitled “Report of Neuropsychological Screening,”[15] were quoted by respondent in his Memorandum[16] to illustrate that said report in fact favored respondent’s claim of competence, to wit:

General Oropesa spoke fluently in English and Filipino, he enjoyed and participated meaningfully in

conversations and could be quite elaborate in his responses on many of the test items. He spoke in a clear voice and his articulation was generally comprehensible. x x x.

x x x x

General Oropesa performed in the average range on most of the domains that were tested. He was able to correctly perform mental calculations and keep track of number sequences on a task of attention. He did BEST in visuo-constructional tasks where he had to copy geometrical designs using tiles. Likewise, he was able to render and read the correct time on the Clock Drawing Test. x x x.

x x x x

x x x Reasoning abilities were generally intact as he was able to suggest effective solutions to problem situations. x x x.[17]

With the failure of petitioner to formally offer his documentary evidence, his proof of his father's incompetence consisted purely of testimonies given by himself and his sister (who were claiming interest in their father's real and personal properties) and their father's former caregiver (who admitted to be acting under their direction). These testimonies, which did not include any expert medical testimony, were insufficient to convince the trial court of petitioner's cause of action and instead lead it to grant the demurrer to evidence that was filed by respondent.

Even if we were to overlook petitioner's procedural lapse in failing to make a formal offer of evidence, his documentary proof were comprised mainly of certificates of title over real properties registered in his, his father's and his sister's names as co-owners, tax declarations, and receipts showing payment of real estate taxes on their co-owned properties, which do not in any way relate to his father's alleged incapacity to make decisions for himself. The only medical document on record is the aforementioned "Report of Neuropsychological Screening" which was attached to the petition for guardianship but was never identified by any witness nor offered as evidence. In any event, the said report, as mentioned earlier, was ambivalent at best, for although the report had negative findings regarding memory lapses on the part of respondent, it also contained findings that supported the view that respondent on the average was indeed competent.

In an analogous guardianship case wherein the soundness of mind of the proposed ward was at issue, we had the occasion to rule that "where the sanity of a person is at issue, expert opinion is not necessary [and that] the observations of the trial judge coupled with evidence establishing the person's state of mental sanity will suffice." [18]

Thus, it is significant that in its Order dated November 14, 2006 which denied petitioner's motion for reconsideration on the trial court's unfavorable September 27, 2006 ruling, the trial court highlighted the fatal role that petitioner's own documentary evidence played in disproving its case and, likewise, the trial court made known its own observation of respondent's physical and mental state, to wit:

The Court noted the absence of any testimony of a medical expert which states that Gen. Cirilo O. Oropesa does not have the mental, emotional, and physical capacity to manage his own affairs. On the contrary, Oppositor's evidence includes a Neuropsychological Screening Report which states that Gen. Oropesa, (1) performs on the average range in most of the domains that were tested; (2) is capable of mental calculations; and (3) can provide solutions to problem situations. The Report concludes that Gen. Oropesa possesses intact cognitive functioning, except for mildly impaired abilities in memory, reasoning and orientation. It is the observation of the Court that oppositor is still sharp, alert and able. [19] (Citation omitted; emphasis supplied.)

It is axiomatic that, as a general rule, "only questions of law may be raised in a petition for review on certiorari because the Court is not a trier of facts." [20] We only take cognizance of questions of fact in certain exceptional

circumstances;[21] however, we find them to be absent in the instant case. It is also long settled that “factual findings of the trial court, when affirmed by the Court of Appeals, will not be disturbed by this Court. As a rule, such findings by the lower courts are entitled to great weight and respect, and are deemed final and conclusive on this Court when supported by the evidence on record.”[22] We therefore adopt the factual findings of the lower court and the Court of Appeals and rule that the grant of respondent’s demurrer to evidence was proper under the circumstances obtaining in the case at bar.

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 is reversed he shall be deemed to have waived the right to present evidence.

A demurrer to evidence is defined as “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.”[23] We have also held that a demurrer to evidence “authorizes a judgment on the merits of the case without the defendant having to submit evidence on his part, as he would ordinarily have to do, if plaintiff’s evidence shows that he is not entitled to the relief sought.”[24]

There was no error on the part of the trial court when it dismissed the petition for guardianship without first requiring respondent to present his evidence precisely because the effect of granting a demurrer to evidence other than dismissing a cause of action is, evidently, to preclude a defendant from presenting his evidence since, upon the facts and the law, the plaintiff has shown no right to relief.

WHEREFORE, premises considered, the petition is hereby DENIED. The assailed Decision dated February 29, 2008 as well as the Resolution dated September 16, 2008 of the Court of Appeals in CA-G.R. CV No. 88449 are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 72-83; penned by Associate Justice Amelita G. Tolentino with Associate Justices Lucenito N. Tagle and Agustin S. Dizon, concurring.

[2] Id. at 85-86.

[3] Id. at 457-460.

[4] Id. at 468-469.

[5] Id. at 73-75.

[6] Id. at 460.

[7] Id. at 469.

[8] Id. at 82.

[9] Id. at 667.

[10] 212 Phil. 346 (1984).

[11] Id. at 352.

[12] Vda. de Baluyut v. Luciano, 164 Phil. 55, 70 (1976), citing Yangco v. Court of First Instance of Manila, 29 Phil. 183, 190 (1915).

[13] Rollo, pp. 653-682.

[14] Id. at 659.

[15] Records, pp. 10-13.

[16] Rollo, pp. 684-705.

[17] Records, pp. 11-12.

[18] Hernandez v. San Juan-Santos, G.R. Nos. 166470 and 169217, August 7, 2009, 595 SCRA 464, 473-474.

[19] Rollo, p. 468.

[20] Office of the Ombudsman v. Racho, G.R. No. 185685, January 31, 2011, 641 SCRA 148, 155.

[21] Heirs of Jose Lim v. Lim, G.R. No. 172690, March 3, 2010, 614 SCRA 141, 147.

[22] Maxwell Heavy Equipment Corporation v. Yu, G.R. No. 179395, December 15, 2010, 638 SCRA 653, 658.

[23] Republic v. Estate of Alfonso Lim, Sr., G.R. No. 164800, July 22, 2009, 593 SCRA 404, 422.

[24] Uy v. Chua, G.R. No. 183965, September 18, 2009, 600 SCRA 806, 822.

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