

**MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY,
PETITIONER, VS. HEIRS OF ESTANISLAO MIÑOZA, NAMELY: THE
HEIRS OF FILOMENO T. MIÑOZA, REPRESENTED BY LAUREANO M.
MIÑOZA; THE HEIRS OF...**

G.R. No. 186045. February 02, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari seeking to reverse and set aside the Decision[1] dated March 25, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 70429, and the Resolution[2] dated January 8, 2009 denying petitioner's motion for reconsideration.

The procedural and factual antecedents, as found by the CA, are as follows:

On July 6, 1998, a Complaint[3] for Reconveyance, Cancellation of Defendant's Title, Issuance of New Title to Plaintiffs and Damages was filed by Leila M. Hermosissima (Leila) for herself and on behalf of the other heirs of the late Estanislao Miñoza. The complaint alleged that Leila's late great grandfather, Estanislao Miñoza, was the registered owner of Cadastral Lot Nos. 986 and 991-A, located at Banilad Estate, Cebu City, per TCT Nos. RT-6101 (T-10534) and RT-6102 (T10026). It was, likewise, alleged that the late Estanislao Miñoza had three children, namely, Adriana, Patricio, and Santiago, all surnamed Miñoza. In the late 1940s, the National Airports Corporation (NAC) embarked in an expansion project of the Lahug Airport. For said purpose, the NAC acquired several properties which surrounded the airport either through negotiated sale or through expropriation. Among the properties that were acquired by the NAC through a negotiated sale were Lot Nos. 986 and 991-A.[4]

Leila claimed that their predecessors-in-interest, specifically, Adriana, Patricio, and Santiago executed a Deed of Sale on February 15, 1950 conveying the subject lots to the NAC on the assurance made by the latter that they (Leila's predecessors-in-interest) can buy the properties back if the lots are no longer needed. Consequently, they sold Lot No. 986 to the NAC for only P157.20 and Lot No. 991-A for P105.40. However, the expansion project did not push through. More than forty years after the sale, plaintiffs informed the NAC's successor-in-interest, the Mactan-Cebu International Airport Authority (MCIAA), that they were exercising the buy-back option of the agreement, but the MCIAA refused to allow the repurchase on the ground that the sale was in fact unconditional.

The MCIAA, through the Office of the Solicitor General (OSG), filed an Answer with Counterclaim.

After the parties filed their respective pleadings, trial ensued.

On November 16, 1999, before the MCIAA could present evidence in support of its case, a Motion for Intervention,[5] with an attached Complainant-in-Intervention, was filed before the Regional Trial Court (RTC) of Cebu City, Branch 22, by the heirs of Filomeno T. Miñoza, represented by Laureano M. Miñoza; the heirs of Pedro T. Miñoza, represented by Leoncio J. Miñoza; and the Heirs of Florencia T. Miñoza, represented by Antonio M. Urbiztondo (Intervenors), who claimed to be the true, legal, and legitimate heirs of the late Estanislao

Miñoza. The intervenors alleged in their complaint (1) that the plaintiffs in the main case are not related to the late spouses Estanislao Miñoza and Inocencia Togono whose true and legitimate children were: Filomeno, Pedro, and Florencia, all surnamed Miñoza; (2) that, on January 21, 1958, Adriana, Patricio, and Santiago, executed, in fraud of the intervenors, an Extrajudicial Settlement of the Estate of the late spouses Estanislao Miñoza and Inocencia Togono and adjudicated unto themselves the estate of the deceased spouses; and (3) that, on February 15, 1958, the same Adriana, Patricio, and Santiago, fraudulently, deceitfully, and in bad faith, sold Lot Nos. 986 and 991-A to the NAC. The intervenors thus prayed for the following reliefs:

- a. Declaring herein intervenors as the true, legal and legitimate heirs of the late spouses Estanislao Miñoza and Inocencia Togono;
- b. Declaring herein intervenors as the true, rightful and registered owners of Lots 986 and 991-A of the Banilad Friar Lands Estate;
- c. Declaring the Extrajudicial Settlement executed on January 21, 1958 by the late Adriana Miñoza and the late Patricio Miñoza and the late Santiago Miñoza that they are the only heirs of the late spouses Estanislao Miñoza and Inocencia Togono, who died intestate and without any debts or obligations and adjudicating among themselves the estate of the deceased x x x as void ab initio;
- d. Declaring the sale of Lots 986 and 991-A of the Banilad Friar Lands Estate executed by the late Adriana Miñoza, the late Patricio Miñoza and the late Santiago Miñoza in favor of the National Airport Corporation on February 15, 1958 x x x as void ab initio;
- e. Ordering the cancellation of Transfer Certificate of Title Nos. 120370 and 120372 for Lots 986 and 991-A in the name of the Mactan-Cebu International Airport Authority and restoring Transfer Certificate of Title Nos. RT-6101 (T-10534) and RT-6102 (T-10026) to be the true and valid torrens titles to Lots 986 and 991-[A].
- f. Condemning plaintiffs Leila M. Hermosissima and Constancio Miñoza to pay intervenors, who are the true, lawful and legitimate heirs of the late Spouses Estanislao Miñoza and Inocencia Togono, the amounts of P300,000.00 and P100,000.00 as moral and exemplary damages respectively;
- g. Condemning plaintiffs to pay the cost of suit.[6]

On February 18, 2000, the RTC of Cebu City, Branch 22, issued an Order[7] denying the Motion for Intervention.

In denying the motion, the trial court opined that the ownership of the subject lots was merely a collateral issue in the action. The principal issue to be resolved was whether or not the heirs of the late Estanislao Miñoza - whoever they may be - have a right to repurchase the said lots from the MCIAA. Consequently, the rights being claimed by the intervenors should be asserted in and would be fully protected by a separate proceeding. Moreover, if the motion was granted, it would unduly delay the proceedings in the instant case. Finally, the complaint-in-intervention was flawed, considering that it was not verified and does not contain the requisite certification of non-forum shopping.

The intervenors filed a Motion for Reconsideration,[8] to which was attached a Complaint-in-Intervention with the required Verification and Certificate of Non-Forum Shopping.[9] However, the RTC denied the motion in its Order dated July 25, 2000.

Aggrieved, the intervenors sought recourse before the CA, docketed as CA-G.R. CV No. 70429, on the following assignment of errors:

I.

THE COURT A QUO IN ITS ORDER DATED FEBRUARY 18, 2000 GRAVELY ERRED IN DISMISSING

THE ABOVE CAPTIONED COMPLAINT BASED ON THE GROUND THAT: 1). THE RIGHTS CLAIMED BY MOVANTS-INTERVENORS (NOW INTERVENORS-APPELLANTS) WOULD MORE APPROPRIATELY BE ASSERTED IN, AND WOULD BE FULLY PROTECTED BY, A SEPARATE PROCEEDING; 2). IT (THE COMPLAINT-IN-INTERVENTION) WILL DELAY THE PROCEEDINGS OF THE INSTANT CASE; AND 3). THAT THE COMPLAINT-IN-INTERVENTION IS NOT VERIFIED AND DOES NOT CONTAIN THE REQUISITE CERTIFICATION OF NON-FORUM SHOPPING.

II.

THE COURT A QUO IN ITS ORDER DATED JULY 25, 2000 GRAVELY ERRED WHEN IT DENIED MOVANTS-INTERVENORS' (NOW INTERVENORS-APPELLANTS) MOTION FOR RECONSIDERATION DATED MARCH 20, 2000, AGAIN ON THE GROUND THAT TO ALLOW THE INTERVENORS TO INTERVENE IN THIS CASE WHICH IS ALREADY SUBMITTED FOR DECISION WOULD ONLY DELAY THE DISPOSAL OF THIS CASE AND THAT ANYWAY, THE INTERVENORS HAVE NOTHING TO FEAR BECAUSE THEIR CLAIMS, IF THERE IS ANY, CAN BE WELL THRESHED OUT IN ANOTHER PROCEEDING.[10]

On March 25, 2008, the CA rendered the assailed Decision, the decretal portion of which provides:

WHEREFORE, the appealed Orders dated February 18, 2000 and July 25, 2000 of the RTC of Cebu City, in Civil Case No. 22290, are REVERSED and SET ASIDE. The RTC of Cebu City is directed to resolve with deliberate dispatch Civil Case No. 22290 and to admit the complaint-in-intervention filed by the intervenors-appellants.

SO ORDERED.[11]

In ruling for the intervenors, the CA ratiocinated that contrary to the findings of the trial court, the determination of the true heirs of the late Estanislao Miñoza is not only a collateral, but the focal issue of the case, for if the intervenors can prove that they are indeed the true heirs of Estanislao Miñoza, there would be no more need to determine whether the right to buy back the subject lots exists or not as the MCIAA would not have acquired rights to the subject lots in the first place. In addition, to grant the motion for intervention would avoid multiplicity of suits. As to the lack of verification and certification on non-forum shopping, the CA opined that the filing of the motion for reconsideration with an appended complaint-in-intervention containing the required verification and certificate of non-forum shopping amounted to substantial compliance of the Rules.

Petitioner then filed a motion for reconsideration, but it was denied in the Resolution dated January 8, 2009.

Hence, the petition assigning the lone error that:

THE COURT OF APPEALS (CEBU CITY) GRAVELY ERRED IN ALLOWING RESPONDENTS TO INTERVENE IN CIVIL CASE NO. CEB-22290.[12]

Petitioner argues that to allow the intervenors to intervene in the proceedings before the trial court would not only unduly prolong and delay the resolution of the case, it would make the proceedings unnecessarily complicated and change the nature of the proceedings. Furthermore, contrary to the requirements for the allowance of a motion for intervention, their legal interest in the subject properties appear to be merely contingent or expectant and not of direct or immediate character. Petitioner also posits that the intervenors' rights can be better protected in another proceeding.

Anent the lack of verification and certification on non-forum shopping, petitioner maintains that the trial court was correct in denying the motion on this ground. In addition, even if the complaint-in-intervention with the required verification and certificate of non-forum shopping was appended to the intervenors' motion for

reconsideration, the complaint-in-intervention was not verified by all the interested parties or all the heirs of Filomeno Miñoza, which still warrants its dismissal.

The petition is meritorious.

At the outset, on the procedural aspect, contrary to petitioner's contention, the initial lack of the complaint-in-intervention of the requisite verification and certification on non-forum shopping was cured when the intervenors, in their motion for reconsideration of the order denying the motion to intervene, appended a complaint-in-intervention containing the required verification and certificate of non-forum shopping.

In the case of *Altres v. Empleo*,^[13] this Court clarified, among other things, that as to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction, or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby. Further, a verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.^[14]

Moreover, as to the certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rules on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons." Also, the certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.^[15]

Thus, considering that the intervenors in their motion for reconsideration, appended a complaint-in-intervention with the required verification and certificate of non-forum shopping, the requirement of the Rule was substantially complied with.

Notwithstanding the intervenors' compliance with the procedural requirements, their attempt to intervene is doomed to fail.

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him, her or it to protect or preserve a right or interest which may be affected by such proceedings.^[16] It is a proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining plaintiff in claiming what is sought by the complaint, or uniting with defendant in resisting the claims of plaintiff, or demanding something adversely to both of them; the act or proceeding by which a third person becomes a party in a suit pending between others; the admission, by leave of court, of a person not an original party to pending legal proceedings, by which such person becomes a party thereto for the protection of some right of interest alleged by him to be affected by such proceedings.^[17]

Section 1, Rule 19 of the Rules of Court states:

SECTION 1. Who may intervene. -- A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Under this Rule, intervention shall be allowed when a person has (1) a legal interest in the matter in litigation; (2) or in the success of any of the parties; (3) or an interest against the parties; (4) or when he is so situated as to be adversely affected by a distribution or disposition of property in the custody of the court or an officer thereof.[18] Moreover, the court must take into consideration whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's right or interest can be adequately pursued and protected in a separate proceeding.

In the case at bar, the intervenors are claiming that they are the legitimate heirs of Estanislao Miñoza and Inocencia Togono and not the original plaintiffs represented by Leila Hermosissima. True, if their allegations were later proven to be valid claims, the intervenors would surely have a legal interest in the matter in litigation. Nonetheless, this Court has ruled that the interest contemplated by law must be actual, substantial, material, direct and immediate, and not simply contingent or expectant. It must be of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.[19] Otherwise, if persons not parties to the action were allowed to intervene, proceedings would become unnecessarily complicated, expensive and interminable.[20]

Moreover, the intervenors' contentions that Leila's predecessors-in-interest executed, in fraud of the intervenors, an extra judicial settlement of the estate of the late spouses Estanislao Miñoza and Inocencia Togono and adjudicated unto themselves the estate of the deceased spouses, and that subsequently, her predecessors-in-interest fraudulently and deceitfully sold the subject lots to the NAC, would unnecessarily complicate and change the nature of the proceedings.

In addition to resolving who the true and legitimate heirs of Estanislao Miñoza and Inocencia Togono are, the parties would also present additional evidence in support of this new allegation of fraud, deceit, and bad faith and resolve issues of conflicting claims of ownership, authenticity of certificates of titles, and regularity in their acquisition. Verily, this would definitely cause unjust delay in the adjudication of the rights claimed by the original parties, which primarily hinges only on the issue of whether or not the heirs represented by Leila have a right to repurchase the subject properties from the MCIAA.

Verily, the allegation of fraud and deceit is an independent controversy between the original parties and the intervenors. In general, an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies. It is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit.[21] Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial. The remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action.[22]

To be sure, not only will the intervenors' rights be fully protected in a separate proceeding, it would best determine the rights of the parties in relation to the subject properties and the issue of who the legitimate heirs of Estanislao Miñoza and Inocencia Togono, would be laid to rest.

Furthermore, the allowance or disallowance of a motion for intervention rests on the sound discretion of the court after consideration of the appropriate circumstances.[23] It is not an absolute right. The statutory rules or conditions for the right of intervention must be shown. The procedure to secure the right to intervene is to a great extent fixed by the statute or rule, and intervention can, as a rule, be secured only in accordance with the terms of the applicable provision.[24]

Consequently, the denial of the motion to intervene by the RTC was but just and proper. The conclusion of the

RTC is not bereft of rational bases. It denied the motion to intervene in the exercise of its sound discretion and after taking into consideration the particular circumstances of the case.

WHEREFORE, subject to the above disquisition, the petition is GRANTED. The Decision dated March 25, 2008 and the Resolution dated January 8, 2009, of the Court of Appeals in CA-G.R. CV No. 70429, are REVERSED and SET ASIDE. The Orders of the Regional Trial Court of Cebu City, Branch 22, dated February 18, 2000 and July 25, 2000, are REINSTATED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Francisco P. Acosta, with Associate Justices Franchito N. Diamante and Florito S. Macalino, concurring; rollo, pp. 56- 65.

[2] Id. at 67-68.

[3] Id. at 69-76.

[4] Id. at 57.

[5] Id. at 112-115.

[6] Id. at 125.

[7] Id. at 130-131.

[8] Id. at 132-136.

[9] Id. at 116-129.

[10] Id. at 143-144.

[11] Id. at 64-65.

[12] Id. at 39.

[13] G.R. No. 180986, December 10, 2008, 573 SCRA 583.

[14] Id. at 598-597.

[15] Id. at 597.

[16] Asia's Emerging Dragon Corporation v. Department of Transportation and Communications, G.R. Nos. 169914 and 174166, March 24, 2008, 549 SCRA 44, 49.

[17] Metropolitan Bank and Trust Co. v. Presiding Judge, RTC Manila, Br. 39, G.R. No. 89909, September 21, 1990, 189 SCRA 820, 824.

[18] Alfelor v. Halasan, G.R. No. 165987, March 31, 2006, 486 SCRA 451, 460.

[19] Id. at 461. (Citation omitted.)

[20] Nordic Asia Limited. v. Court of Appeals, 451 Phil. 482, 493 (2003).

[21] Big Country Ranch Corporation v. Court of Appeals, G.R. No. 102927, October 12, 1993, 227 SCRA 161,

167.

[22] Id. at 166-167.

[23] Quinto v. Commission on Elections, G.R. No. 189698, February 22, 2010, 613 SCRA 385, 402.

[24] Supra note 19, at 165.

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