

THE UNITED ABANGAN CLAN, INC., REPRESENTED BY CRISTITUTO F. ABANGAN, PETITIONER, VS. YOLANDA C. SABELLANO-SUMAGANG, ERNESTO TIRO, BASILISA CABELLON-MORENO, MARTIN C. TABURA, JR....

G.R. No. 186722. June 18, 2012

Ponente: SERENO, J.

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SERENO, J.:

Before the Court is a Petition for Review on Certiorari filed under Rule 45 in relation to Rule 41, Section 2(c) of the Rules of Court pertaining to appeals involving pure questions of law. The petition assails the 6 February 2009 Resolution of the Regional Trial Court (RTC),^[1] which dismissed the action of United Abangan Clan, Inc. (United Abangan Clan) for the cancellation of the entry in the Register of Marriages of the City Civil Registrar of Cebu City (Civil Registrar), involving the alleged marriage of Anastacia Abangan (Anastacia) to Raymundo Cabellon (Raymundo). Petitioner United Abangan Clan is an association comprised of members who are supposedly the collateral relatives and nearest intestate heirs of Anastacia. Respondents Yolanda C. Sabellano-Sumagang, Ernesto Tiro, Basilisa Cabellon-Moreno, Martin C. Tabura, Jr., Romualdo C. Tabura, and Rolando Cabellon (Cabellon Descendants) are the purported grandchildren and great-grandchildren of Anastacia and Raymundo.

The present case stemmed from the registration of the purported marital union between the late Anastacia and Raymundo. They were allegedly married on 18 February 1873 at the Santo Tomas de Villanueva Parish in El Pardo, Cebu City. A delayed registration of the marriage was entered in the records of the Civil Registrar, and a Certificate of Marriage issued sometime in September 2007 or 134 years after their purported matrimonial bond. The petition for late registration was filed by Rolando Cabellon, Edith T. Casas, and Imelda T. Casugay, who were allegedly the true legal heirs and descendants of Anastacia and Raymundo.

On 19 May 2008, the United Abangan Clan filed a Petition seeking the cancellation of the entry in the Register of Marriages. It averred^[2] that Anastacia died single and without issue. It then posited that the claimed marriage could not be registered under Act No. 3753, because it had ostensibly taken place before 27 February 1931, which was the date of effectivity of the law. Furthermore, petitioner contended that it was not Anastacia and Raymundo who had filed the application for the late registration of their marriage, and that there was failure to show cause for the delay in registration.

On the other hand, respondents argued^[3] that petitioner was engaged in forum shopping, since the fact of marriage between Anastacia and Raymundo was an important issue to be resolved in another case. Docketed as SP. PROC. No. 16171-CEB, the case involved a petition for the judicial declaration of the heirs of decedent Anastacia (first petition). They next asserted that the United Abangan Clan was estopped from questioning the late registration of the marriage, which petitioner had failed to contest after the publication of the Notice of Delayed Registration. They then averred that it failed to exhaust administrative remedies, as it did not appeal the

decision of the Civil Registrar to a higher office. Finally, they claimed that the marriage of Anastacia and Raymundo had been established by means of an ancient document found in the church records of the Santo Tomas de Villanueva Parish.

On 6 February 2009, the RTC issued a Resolution^[4] dismissing the Petition for cancellation of the entry in the Register of Marriages (second petition) on the ground of *litis pendentia*. According to the trial court, the first petition (SP. PROC. No. 16171-CEB) and the second petition (SP. PROC. No. 16180-CEB), which were both initiated by petitioner, involved the same parties and concerned the same issues and reliefs prayed for. The trial court explained that any decision on the first petition would necessarily constitute *res judicata* in the present case, since the ultimate purpose of the second petition was to assert heirship and the right of succession over the inheritance left by Anastacia. Finally, the RTC declared that the present petition was still premature, because petitioner should have first brought the issue to the attention of the Civil Registrar pursuant to the doctrine of primary administrative jurisdiction.

Issue

The sole issue before this Court is whether or not the instant petition was properly dismissed on the ground of *litis pendentia*.

Discussion

Litis pendentia, as a ground for the dismissal of an action, refers to a situation in which another action is pending between the same parties for the same cause of action, and the second action becomes unnecessary and vexatious.^[5] In order to successfully invoke the rule, the movant must prove the existence of the following requisites: (a) the identity of parties, or at least like those representing the same interest in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two (2) cases, such that the judgment that may be rendered in the pending case would, regardless of which party is successful, amount to *res judicata* in the other.^[6]

The crucial consideration in *litis pendentia* is the identity and similarity of the issues under litigation.^[7] As early as in *J. Northcott & Co., Inc. v. Villa-Abrille*, we ruled: “One of the recognized tests of such identity is to discover whether a judgment in the prior action would be conclusive as to the liability sought to be enforced in the second and would operate as a bar to the latter. In other words, if a final judgment in the prior action, be it of whatsoever character it may, would support the plea of *res judicata* in the second, the two suits may be considered identical; otherwise not.”^[8]

There is no identity and similarity between the first and the second petitions with respect to the issues under litigation. The action in the prior Petition (SP. PROC. No. 16171-CEB) involves a judicial declaration of heirship, while the main issue in the present one (SP. PROC. No. 16180-CEB) pertains to a cancellation of entry in the civil register. An action for declaration of heirship (*declaracion de herederos*) refers to a special proceeding in which a person claiming the status of heir seeks prior judicial declaration of his or her right to inherit from a decedent.^[9] On the other hand, an action for cancellation of entry in the civil register refers to a special proceeding whereby a substantial change affecting the civil status of a party is sought through the amendment of the entry in the civil register.^[10] In the former, what is established is a party’s right of succession to the decedent; in the latter, among those settled are the issues of nationality, paternity, filiation, legitimacy of the marital status, and registrability of an event affecting the status or nationality of an individual. Because the respective subject matters in the two actions differ, any decision that may be rendered in one of them cannot constitute *res judicata* in the other. A judicial declaration of heirship is inconclusive on the fact of occurrence of an event registered or to be registered in the civil register, while changes in the entries in the civil register do not in themselves settle the issue of

succession.

WHEREFORE, the Petition is GRANTED. The 6 February 2009 Resolution of the Cebu City RTC in SP. PROC. No. 16180-CEB is REVERSED and SET ASIDE. We hereby order the REMAND of the case (SP. PROC. No. 16180-CEB) to the RTC for a trial on the merits.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] The Resolution in SP. PROC. No. 16180-CEB was penned by RTC Judge Silvestre A. Maamo, Jr.

[2] Petition at 2-4 (In re: Cancellation of the Entry in Register of Marriages in the Office of the City Civil Registrar Cebu City on the Alleged Marriage of Anastacia Abangan to Raymundo Cabellon, SP. PROC. No. 16180-CEB dated 19 May 2008), rollo, pp. 23-25. See also Petition for Review on Certiorari at 3-8 (filed on 11 March 2009), rollo, pp. 8-13.

[3] Position Paper for the Oppositors (In re: Cancellation of the Entry in Register of Marriages in the Office of the City Civil Registrar Cebu City on the Alleged Marriage of Anastacia Abangan to Raymundo Cabellon, SP. PROC. No. 16180-CEB dated 26 September 2008), rollo, pp. 27-30. See also Private Respondent's Comment (filed on 10 June 2009), rollo, pp. 36-38.

[4] RTC Resolution (In re: Cancellation of the Entry in Register of Marriages in the Office of the City Civil Registrar Cebu City on the Alleged Marriage of Anastacia Abangan to Raymundo Cabellon, SP. PROC. No. 16180-CEB, decided on 6 February 2009), rollo, pp. 16-18.

[5] *Bangko Silangan Development Bank v. Court of Appeals*, 412 Phil. 755 (2001).

[6] *Mariscal v. Court of Appeals*, 370 Phil. 52 (1999).

[7] *Id.*

[8] *J. Northcott & Co., Inc. v. Villa-Abrille*, 41 Phil. 462, 465 (1921).

[9] See *Suiliong & Co. v. Chio-Taysan*, 12 Phil. 13 (1908); *Cabuyao v. Caagbay*, 95 Phil. 614 (1954); *Marabiles v. Quito*, 100 Phil. 64 (1956).

[10] *Republic v. Medina*, 204 Phil. 615 (1982)

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