NORMA EDITA R. DY SUN-ONG, PETITIONER, VS. JOSE VICTORY R. DY SUN, RESPONDENT.

G.R. No. 207435. July 01, 2015

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

G.R. No. 207435 is a petition for review[1] assailing the Decision[2] promulgated on 21 September 2012 as well as the Resolution[3] promulgated on 6 June 2013 by the Court of Appeals (CA) in CA-G.R. SP No. 122285. The CA set aside the Orders dated 17 March 2011[4] and 24 October 2011[5] of Branch 105 of the Regional Trial Court of Quezon City (RTC) in Civil Case No. Q-10-67194.

In its 17 March 2011 Order, the RTC denied respondent Jose Victory R. Dy Sun's (respondent) motion to dismiss and supplemental motion to dismiss. In its 24 October 2011 Order, the RTC denied respondent's motion for reconsideration and motion for bill of particulars. The RTC also denied petitioner Norma Edita R. Dy Sun-Ong's (petitioner) urgent motion to cite respondent in contempt of court and urgent motion to declare respondent in default.

In its 21 September 2012 decision, the CA granted respondent's petition and set aside the RTC's Orders dated 17 March 2011 and 24 October 2011. The CA dismissed petitioner's complaint on the grounds of prescription and laches.

The Facts

The CA recited the facts as follows:

> This action stems from a Complaint for Delivery of Shares including Dividends Due Thereon in Yakult Philippines, Inc., and Damages filed on May 21, 2010 by [petitioner] against her brother [respondent]. It alleged that [respondent] was the holder in trust of some 90,848,000 shares of Yakult Philippines. Inc. ("YPI") belonging to the heirs of the late Don Vicente Dy Sun, Sr., one of whom is plaintiff Norma Edita who claims that 18,169,600 shares belong to her; that written demand for the delivery of the rightful shares of the other heirs was made upon [respondent] but the latter did not send any reply thereto; and that [respondent] is duty bound to account for Norma Edita's YPI shares and for any cash or stock dividends which he may have received therefrom.
>
> On June 18, 2010, summons was served upon [respondent] requiring him to file his answer to the complaint within fifteen (15) days therefrom.
>
> On July 1, 2010, [respondent] filed a Motion to Dismiss interposing the following grounds:
> a. The Honorable Court does not have jurisdiction to act on the Complaint, because [petitioner] did not pay the correct amount of docket fees.
>
> b. The Complaint fails to state a cause of action.

> c. [Petitioner's] principal or basic 'cause of action,' if any, has prescribed and is therefore barred by the Statute of Limitations.
>
> d. [Petitioner's] principal or basic 'cause of action,' if any, is also barred by laches, estoppel, abandonment and/or waiver on her part.

On August 4, 2010, [petitioner] filed her Opposition to the Motion to Dismiss contending, among others, that she paid the correct amount of docket fees as computed by the Court personnel and that the accusation that she "deliberately attempted to cheat, defraud or otherwise deprive the judiciary" of the correct amount of docket fees is completely without basis. In addition, she manifested her willingness to pay additional docket fees should it be proven that the amount she paid was insufficient.

Reply (to Opposition to Motion to Dismiss) was filed by [respondent] on August 20, 2010.

On September 23, 2010, the RTC issued an Order, the dispositive portion of which reads:

> Accordingly, the case is referred to the Office of the Clerk of Court for the re-assessment of the correct filing fees using as basis the true amount of [petitioner's] claim as stated in par. 4 of the Complaint, to wit:
>
> (4) That each of the above five (5) legal heirs is entitled to one-fifth (1/5) of the 90,848,000 YPI shares or (a) 18,169,600 YPI shares for the [petitioner], (b) 18,169,600 YPI shares for the HEIRS OF THE LATE VICENTE DY SUN, JR., and (c) 18,169,600 YPI shares for ELISA DY SUN-TAN.
>
> and to pay the deficiency, if any, within fifteen days from receipt of the Assessment Report.
>
> The Court defers its ruling on the other issues raised by the [respondent] in the motion to dismiss until the issue of the correct docket fee is resolved.
>
> SO ORDERED.

On November 23, 2010, [respondent] filed a Supplemental Motion to Dismiss alleging as additional grounds that:

> e. [Petitioner] has failed to comply with a lawful Order issued by the Honorable Court [i.e., to pay the correct filing fees]; and
>
> f. [Petitioner] has failed to prosecute her action for an unreasonable length of time.

On December 22, 2010, [petitioner] filed an Urgent Manifestation and Motion disclosing that she paid the deficiency filing fees on December 9, 2010 based on the Manifestation and Compliance of the Office of the Clerk of Court dated November 26, 2010, which she received only on December 3, 2010.[6]

The RTC's Ruling

The RTC issued the assailed Order dated 17 March 2011 and ruled in favor of petitioner in denying both the Motion to Dismiss and Supplemental Motion to Dismiss filed by respondent.

The RTC ruled that the filing fee paid by petitioner in the amount of P301,274.90 was correctly assessed. The filing fee was based on the allegations in paragraph 4 of the complaint as well as on the relief prayed for in the complaint. Moreover, there is no automatic dismissal of the complaint even if the filing fee paid at the time of filing was insufficient. The party involved should demonstrate his willingness to abide by the rules prescribing payment and pay the correct amount within the applicable prescriptive period.

The RTC ruled that the allegations in petitioner's complaint sufficiently established a cause of action. The RTC worded petitioner's cause of action as "whether or not she is entitled to her claim of 18,169,600 YPI shares which [respondent] allegedly held in trust in her favor."[7] The RTC reasoned that the complaint did not have to

establish or allege facts proving the existence of a cause of action at the outset; this would have to be done at the trial on the merits of the case.

The RTC ruled that because it was not clear in the pleadings filed as to when the period of prescription should be reckoned with, there should be a full-blown trial on the merits on the issue of prescription. Finally, the RTC also ruled that it could not find the existence of laches, estoppel, fraud or prescription of actions without conducting trial on the merits.

Respondent filed a Motion for Reconsideration dated 25 April 2011, and an Ad Cautelam Motion for Bill of Particulars dated 26 April 2011. The RTC denied both motions in its assailed Order dated 24 October 2011.

Respondent filed a Petition for Certiorari under Rule 65 before the CA and sought to nullify the RTC's 17 March 2011 and 24 October 2011 Orders.

The CA's Ruling

The CA granted respondent's petition and reversed the RTC's 17 March 2011 and 24 October 2011 Orders.

The CA declared that the RTC correctly ruled that there was sufficient payment of docket fees in the amount of P301,274.90. The Clerk of Court assessed the docket fees on the claimed 18,169,600 shares computed at P1.00 par value per share, and not on the P3.47 book value per share. The book value was never alleged in the complaint. Moreover, non-payment of docket fees at the time of the filing of the complaint does not automatically cause the dismissal of the case as long as the correct fee is paid within the applicable prescriptive period.

The CA ruled that petitioner's allegations satisfied all the elements of a cause of action. The test of the sufficiency of facts as alleged in the complaint to constitute a cause of action is whether or not, admitting the facts as alleged, the court could render a valid judgment thereon in accordance with the prayer in the complaint.

The CA agreed with respondent that petitioner's cause of action has already prescribed. An allegation of prescription can effectively be used in a motion to dismiss when the complaint shows on its face that the action has already prescribed. The CA stated:

> Here, it is clear from the allegations in the Complaint that the subject shares of stock which [petitioner] seeks to recover from [respondent] were purportedly transferred in trust to the latter by the late Don Vicente Dy Sun, Sr. prior to his death, i.e., prior to December 15, 1988; that since then, [respondent] has been in possession of the subject shares of stock which admittedly increased in value of almost 20 times as of October 26, 2009; and that it was only on March 23, 2010 - i.e., after the lapse of about twenty-two (22) years from the supposed date of transfer of the subject shares of stock - that [petitioner] demanded, in writing, for the delivery of the aforesaid shares of stock, including all dividends due thereon up to the present time. Hence, as aptly argued in the petition, these allegations in the Complaint that were hypothetically admitted by [respondent] (as a result of his motion to dismiss anchored on the ground that the complaint states no cause of action) amount to judicial admissions which may be considered as basis for resolving the question of prescription relative to [petitioner's] cause of action.[8]

The CA also agreed with respondent that petitioner's long inaction in asserting her right to the subject shares of stock bars her from recovering them from respondent under the equitable principle of laches.

Petitioner filed a Motion for Reconsideration, dated 12 October 2012, of the C A Decision. The C A denied the motion in a Resolution dated 6 June 2013.

The Issues

Petitioner enumerated the following grounds warranting allowance of her petition:

- The Presiding Magistrate of the lower court was merely hewing to the letter of the law and the rules, thus, she can hardly be faulted with gravely abusing her adjudicatory powers in denying respondent's motion to dismiss as well as the motion for bill of particulars filed by the latter.

- Respondent is estopped from further assailing the order of the trial judge denying his motion to dismiss as well as the order of denial of his motion for reconsideration considering that he already filed his answer with counterclaim.

- The Court of Appeals patently erred and overstepped its judicial prerogatives by entertaining the petition in the proceedings below because certiorari was the wrong remedy resorted to by respondent.[9]

Respondent, for his part, enumerated the following arguments against the petition:

- The Court of Appeals committed no reversible error in granting the Certiorari Petition. In particular:

- [Petitioner's] principal "implied trust" cause of action against [respondent] has prescribed.

- [Petitioner's] principal "implied trust" cause of action against [respondent] has been barred by laches.

- Certiorari was the correct and proper remedy for questioning the assailed RTC Orders.

- [Respondent] was not estopped from questioning the Assailed Orders before the Court of Appeals.

- [Petitioner] attached a false certification against forum-shopping to her Petition for Review. Thus, the Petition for Review is fatally defective and should be dismissed.[10]

In her Reply to Comment,[11] petitioner stated that the only issues in her petition are the following:

- Whether or not the action instituted by the petitioner before the [RTC] (Civil Case No. Q-10-67194) has been barred by laches and prescription; and

- Whether or not the Court of Appeals patently erred and overstepped its prerogatives in entertaining respondent's petition for certiorari in C.A.-G.R. SP No. 122285.[12]

The Court's Ruling

The petition has merit. This Court remands the case to the RTC for trial and judgment on the merits. The interpretations of the parties of the factual matters in dispute are so diametrically opposed that the outright dismissal by the CA was improper.

Petitioner invokes Articles 1453 and 1457 of the Civil Code in claiming her alleged shares from respondent. Said Articles read as follows:

Art. 1453. When property is conveyed to a person in reliance upon his declared intention to hold it for, or transfer it to another or the grantor, there is an implied trust in favor of the person whose benefit is contemplated.

Art. 1457. An implied trust may be proved by oral evidence.

Petitioner's theory of her case relies upon implied trust under Article 1453. Petitioner further states that the existence of implied trust prevents prescription from setting in because the defense of prescription cannot be set up in an action to enforce trust.[13] Petitioner is willing to present evidence,[14] such as letters between herself and respondent as well as checks representing the cash dividends on the YPI shares, to prove that neither prescription nor laches had set in.

Respondent, on the other hand, denies petitioner's claim of implied trust and asserts that his previous act of giving

petitioner a share of the cash dividends on the YPI shares was pure liberality on his part.[15] Respondent insists that petitioner's cause of action, if any, has prescribed.

The following are questions of facts which this Court cannot pass upon: (1) the alleged existence of an implied trust between petitioner and respondent, (2) respondent's alleged repudiation of the implied trust, and (3) prescription of petitioner's cause of action, if any. The CA's dismissal of the case was premature as these matters need presentation and appreciation of evidence. For a fair and just disposition of the case at hand, the parties should be allowed to present their respective claims and defenses in a full--blown trial.

WHEREFORE, we GRANT the petition. We REVERSE and SET ASIDE the Decision promulgated on 21 September 2012 as well as the Resolution promulgated on 6 June 2013 by the Court of Appeals in CA-G.R. SP No. 122285. The case is REMANDED to Branch 105 of the Regional Trial Court of Quezon City for trial and judgment on the merits. No costs.

SO ORDERED.

Bersamin,[*] Del Castillo, Mendoza, and Leonen, JJ., concur.

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[*] Designated acting member per Special Order No. 2079 dated 29 June 2015.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 52-71. Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr. concurring.

[3] Id. at 72. Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr. concurring.

[4] Id. at 73-77. Penned by Presiding Judge Rosa M. Samson.

[5] Id. at 78-83. Penned by Presiding Judge Rosa M. Samson.

[6] Id. at 53-56.

[7] Id. at 76.

[8] Id. at 69.

[9] Id. at 15-16.

[10] Id. at 334-335.

[11] Id. at 635-648.

[12] Id. at 635.

[13] Citing Vda. de Jacinto v. Vda. de Jacinto, No. L-17955, 31 May 1962, 5 SCRA 370; Juan v. Zuniga, 114 Phil. 1163 (1962); Castro v. Castro, 57 Phil. 675 (1932); Cristobal v. Gomez, 50 Phil. 810 (1927).

[14] Rollo, pp. 26-29 (Emphases in the original removed). Petitioner enumerated the following evidence to prove her claims:

- Annex "1" - Copy of Asia United Bank Check No. 0106087 dated 7 September 2005, payable to petitioner Norma Edita Dy Sun Ong and signed by respondent Jose Victory R. Dy Sun - representing partial cash dividends

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received by petitioner from respondent for shares of stock of Yakult Philippines, Inc. beneficially owned by the said petitioner.

- Annex "2" - Copy of the letter dated 11 January 2006 addressed to respondent J. Victory R. Dy Sun and signed by petitioner Norma Edita Dy Sun Ong - wherein the latter questioned the computation of the amount of cash dividends which she was entitled to receive from respondent for the stock certificates due to her but still under the name of respondent, and wherein petitioner reminded respondent to turn over to her Stock Certificate No. 568 dated 2 July 2003 covering 317,460 shares of Yakult Philippines, Inc. as part of the agreement between respondent and their brother Alberto Dy Sun to proportionately give to her, which respondent had not complied with.

- Annex "3" - Copy of the letter of demand dated 20 September 2006 addressed to respondent J. Victory R. Dy Sun and signed by petitioner Norma Edita Dy Sun Ong - wherein the said petitioner formally demanded again from respondent, among other things, "to pay the proceeds of the cash dividends of all Stock Certificates which you have fully signed and endorsed to me as the beneficial owner and x x x also the cash dividends arising from Stock Certificate 568 which to date you have not delivered to me as the actual and beneficial owner."

- Annex "4" - Copy of the letter dated 9 October 2006 addressed to Atty. Angel C. Cruz, Corporate Secretary of Yakult Philippines, Inc., and signed by petitioner Norma Edita Dy Sun Ong - wherein the said petitioner requested said Atty. Angel C. Cruz to cause the transfer to her name the Stock Certificates mentioned therein (all issued only in the years 2000, 2001 and 2003) which have been duly endorsed by the named YPI stockholders Alberto R. Dy Sun and respondent J. Victory R. Dy Sun. Petitioner also requested therein the cancellation of Stock Certificate No. 568 covering 317,460 shares and the replacement thereof with a new stock certificate under her name, for the reasons cited therein.

- Annex "5" - Copy of the letter dated 23 October 2006 addressed to petitioner Norma Edita Dy Sun Ong and signed by respondent J. Victory Dy Sun - wherein the said respondent expressly admitted that he agreed to cede to petitioner 952,380 shares of Yakult Philippines, Inc.

- Annex "6" - Copy of the letter dated 30 October 2006 addressed to respondent J. Victory R. Dy Sun and signed by petitioner Norma Edita Dy Sun Ong - wherein petitioner stated that respondent's letter dated 23 October 2006 is an "outright acknowledgment of all my rights as a legal holder of the subject stock certificates" which were endorsed to her not as an act of generosity on the part of respondent but as a "part product of an agreement between and among us the three siblings of the late Dr. Vicente Dy Sun." Petitioner also stated therein that she will pursue to claim Stock Certificate No. 568 and all the products thereof vigorously.

- Annex "7" - Copy of the letter dated 23 November 2006 addressed to respondent J. Victory R. Dy Sun and signed by petitioner Norma Edita Dy Sun Ong - wherein the said petitioner made a follow up of her letter dated 30 October 2006 (Annex "6") and wherein she stated that she plans "to pursue my causes of action which are definitely due to me and that you have no right to deny the said benefits to me."

- Annex "8" - Copy of the letter dated 20 November 2007 addressed to Atty. Angel C. Cruz, Corporate Secretary of Yakult Philippines, Inc., and signed by petitioner Norma Edita Dy Sun Ong - wherein the said petitioner requested Atty. Angel C. Cruz, on the grounds stated therein, that the YPI shares totaling 1,904,760 owned by her but still registered in the name of respondent be now transferred under her name.

- Annex "9" - Copy of the letter dated 20 November 2007 addressed to Atty. Angel C. Cruz and signed by respondent J. Victory R. Dy Sun - wherein said respondent responded to petitioner's letter of 20 November 2007 (Annex "8") and reiterated his stand on the subject stock certificates claimed by petitioner.

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- Annex "10" - Copy of the letter dated 3 December 2007 addressed to Atty. Angel C. Cruz and signed by petitioner Norma Edita Dy Sun Ong - wherein the said petitioner reiterated her request for the proper transfer of stock certificates mentioned therein which were properly endorsed and which were actually and physically handed to her as a result of a family agreement.

- Annex "11" - Copy of the letter dated 9 March 2009 addressed to respondent J. Victory R. Dy Sun and signed by Atty. Angel C. Cruz, YPI Corporate Secretary - wherein the said Atty. Angel C. Cruz told respondent that the letter has to sign the Deed of Absolute Sale of YPI Stock Certificates Nos. 449, 454 and 506 sent to him by Atty. Angel C. Cruz per the latter's letter of 5 March 2009.

- Annex "12" - Copy of the letter of demand dated 13 March 2009 addressed to respondent J. Victory R. Dy Sun and signed by petitioner Norma Edita Dy Sun Ong - wherein the latter made a formal demand to respondent to sign the Deed of Sale sent to him by Atty. Angel C. Cruz relative to the subject shares of stock within ten (10) days from his receipt thereof; otherwise petitioner "will have no other recourse but to bring the same to the proper forum for lawful disposition."

[15] Id. at 222. In a letter dated 23 October 2006, respondent wrote:

Dear Edita,

I write in response to your letter of September 20, 2006, a copy of which was received by me on 9/21/06.

At the outset, let me set the matter straight. Owing to your being our eldest sister and as a matter of pure liberality on my part, I agreed to cede to you some 952,380 shares in Yakult Philippines, Inc. (the "Corporation"). I endorsed to you the corresponding stock certificates for totally no consideration whatsoever and the fact that these certificates are still under my name and have not been transferred to you cannot be attributed to any act or omission on my part whatsoever. That I have given you these shares out of pure generosity should not give you any basis for expecting that I pay the corresponding taxes thereon much less that I should take the initiative in causing the transfer of those shares to be registered in your name in the books of the Corporation. Thus, the fact that the Corporation continues to send to me the dividend checks as a shareholder of the Corporation is entirely due to your own inaction.

With respect to the latest dividends pertaining to those shares I have ceded to you, as with the previous dividends, you may see my son, Aldrin, to whom I have entrusted the matter, so that you can pick up the corresponding amount from him.

In respect to the stock certificate no. 568 which you are claiming is "due you," I urge you to provide me with proof for the basis of such demand. If your basis is the same liberality I gave you in the 952,380 shares, I regret to inform you that, because of your demeanor of late [and] including the matter of the handling of the Corporation's shares referred to above, such liberality on my part no longer exist [sic] in your favor. I, therefore, have no more plans of giving said shares to you gratuitously as I did for the other shares. You have absolutely no basis for claiming ownership of such shares much less to the fruits thereof.

Sincerely,
(signed)
J. VICTORY R. DY SUN

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