

RIZALINA GEMINA, ROSARIO ACANTILADO, JUANITA REYES, EFREN EUGENIO, ROMELIA EUGENIO, AMADOR EUGENIO, JR., ANTONIO EUGENIO, LERMA E. RIBAC, ELVIRA E. SIMEON AND TOMAS EUGENIO, ALL...

G.R. No. 215802. October 19, 2016

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari seeking to reverse and set aside the October 17, 2012 Decision[1] and the November 13, 2014 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 94865, which affirmed the July 31, 2009 Decision[3] and the November 16, 2009 Order[4] of the Regional Trial Court, Branch 14, Laoag City (RTC) in Civil Case No. 13225-12, a case for annulment of instrument.

Spouses Candido Eugenio and Fernanda Geronimo (Spouses Eugenio) were the registered owners of a parcel of land designated as Lot 25742 situated in Brgy. Barit, Laoag City, with an area of 5,299 square meters and covered by Original Certificate of Title (OCT) No. 15218 (subject property).

Tomas, Cristina, Severina, Catalino, and Antero, all surnamed Eugenio, were the children of Spouses Eugenio. Petitioners Rizalina Gemina, Rosario Acantilado and Juanita Reyes are the heirs of Cristina and Severina; petitioner Efren Eugenio is the heir of Catalino; petitioners Perfecto Eugenio, Romelia Eugenio, Amador Eugenio, Jr., Antonio Eugenio, Elvira Simeon, and Lerma Ribac are the heirs of Antero; and petitioner Tomas Eugenio is the heir of Tomas.

In January 2004, Rizalina learned that the subject property was sold by a certain Francisco Eugenio (Francisco) to respondent Spouses Laurel and Zenaida Mariano (Spouses Mariano).

The petitioners, through Candido Gemina, Jr. (Candido, Jr.), called the attention of Spouses Mariano regarding the subject property. According to Spouses Mariano, they bought 4,000 square meters of the subject property, brokered by Francisco, through two (2) deeds of absolute sale.

The matter not being settled, the petitioners, represented by Candido, Jr., filed a complaint for annulment of the instruments before the RTC. They alleged that they were the legal heirs of the deceased Spouses Eugenio, who were the registered owners of the subject property. They further averred that the vendors sold the subject property without the consent of all the legal heirs, thus, the contract of sale was null and void.

The RTC Ruling

In a Decision, dated July 31, 2009, the RTC dismissed the complaint on the ground that the petitioners were not the real parties in interest. It noted that from the allegations in the complaint, the right that the petitioners sought to protect or enforce was that of an heir. Thus, it held that there was a need to establish their status as heirs in a special proceeding for that purpose before they could institute an ordinary civil action to enforce their rights in the

subject property and to have legal personality to seek the nullity of the instruments which affected their rights in the said property.

The RTC, however, declared that Spouses Mariano were buyers in good faith and for value. It found that the petitioners had failed to rebut the presumption of regularity of performance of duty of the notaries public who notarized the two (2) instruments of sale and the presumption of good faith in favor of the buyers. The RTC noted that the un rebutted testimony of respondent Laurel Mariano (Laurel) showed that he was prudent in ascertaining the identities of the vendors of the property. It was also pointed out that some of the heirs were introduced to Spouses Mariano by Francisco, who, in turn, represented to Laurel that the duplicate owner's copy of the title was lost. The RTC disposed the case in this wise:

WHEREFORE, in view of the foregoing disquisition, this court hereby renders judgment:

(1)

dismissing the instant complaint on the ground that the plaintiffs are not the real parties in interest and the complaint states no cause of action;

(2)

adjudging the defendants spouses Laurel Mariano and Zenaida Mariano as buyer in good faith and for value because their vendors have lawful shares, interests and participation in the portion of Lot No. 25742 and in the other property/properties as part of the intestate estate of the late spouses Candido Eugenio and Fernanda Geronimo;

(3)

ordering the plaintiffs and their henchmen, representatives or assigns to respect the ownership and possession of the defendants spouses Laurel Mariano and Zenaida Mariano over the portions sold to them;

(4)

ordering the plaintiffs to pay jointly and solidarily to the defendants spouses Laurel Mariano and Zenaida Mariano the following civil liability, viz:

- P500,000.00 as and by way of moral damages;

- P100,000.00 as and by way of exemplary damages;

- P75,000.00 as and by way of nominal damages;

- P25,000.00 as and by way of temperate damages in lieu of actual expenses as it cannot be ignored that the above-named defendants spouses have incurred expenses in protecting and defending their rights subject of the complaint against them.

(5)

ordering the plaintiffs to pay the cost of the suit.

SO ORDERED.[5]

The petitioners moved for reconsideration, but their motion was denied by the RTC in an order, dated November 16, 2009.

Aggrieved, the petitioners filed an appeal before the CA.

The CA Ruling

In its assailed Decision, dated October 17, 2012, the CA affirmed the decision of the RTC. It agreed with the RTC that the petitioners must first institute a special proceeding to determine their status as heirs of Spouses Eugenio before they could file an ordinary civil action to nullify the deeds of sale. It found that the petitioners were not the real parties in interest to file the suit in the RTC. Hence, the CA ruled that the RTC correctly dismissed the petitioners' complaint for want of cause of action. The dispositive portion reads:

WHEREFORE, premises considered, the Decision dated July 31, 2009 of the Regional Trial Court of Laoag City, Branch 14 is hereby affirmed with modification in that the award for moral and exemplary damages are hereby deleted.

SO ORDERED.[6]

The petitioners moved for reconsideration, but their motion was denied by the CA in its assailed resolution, dated November 13, 2014.

Hence, this petition.

ISSUES

I

WHETHER THE PETITIONERS MUST INSTITUTE A SPECIAL PROCEEDING TO DETERMINE THEIR STATUS AS HEIRS OF SPOUSES EUGENIO BEFORE THEY COULD FILE AN ORDINARY ACTION FOR ANNULMENT OF INSTRUMENT

II

WHETHER THE COURT COULD STILL ADJUDGE SPOUSES MARIANO AS BUYERS IN GOOD FAITH AFTER IT ALREADY RULED THAT THE PETITIONERS WERE NOT THE REAL PARTIES IN INTEREST.

The petitioners argue that the issue regarding their capacity to file the complaint and pray for the nullification of the questioned sale should be deemed waived considering that the same was never raised either as a ground in a motion to dismiss or as an affirmative defense; that when the respondents submitted in evidence the family tree showing the petitioners' lineage to the deceased registered owners, they already admitted that the petitioners were heirs of Spouses Eugenio; and that the RTC erred in adjudging Spouses Mariano as buyers in good faith because if indeed the petitioners' complaint failed to state a cause of action, the only judgment that the RTC could have rendered was a dismissal of the case.

In their Comments on the Petition for Review,[7] dated October 5, 2015, the respondents contended that the petitioners must first file a special proceeding to determine that they were the legal heirs of Spouses Eugenio before they could institute an ordinary action for the annulment of the deeds of sale; and that the petitioners did not present any evidence to prove that they were the legal heirs of the deceased registered owners.

In their Reply,[8] dated March 17, 2016, the petitioners reiterated their argument that failure to state a cause of action must be raised in a motion to dismiss or as a defense in the answer, and that failure to do so would result in a waiver of such ground; that it would be superfluous to subject the estate to administration proceedings as the petitioners had already presented evidence to establish their right as heirs of Spouses Eugenio; and that the necessity of the institution of a separate special proceeding to deal specifically on the issue of heirship would only become essential if the parties in the ordinary civil case could not agree on the matter.

The Court's Ruling

The petitioners must institute a special proceeding to determine their status as heirs of Spouses Eugenio

An ordinary civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.[9] A special proceeding, on the other hand, is a remedy by which a party seeks to establish a status, a right or a particular fact.[10]

The Rules of Court provide that only a real party-in-interest is allowed to prosecute and defend an action in court. A real party-in-interest is the one who stands to be benefited or injured by the judgment in the suit or the one entitled to the avails thereof.[11] Such interest, to be considered a real interest, must be one which is present and substantial, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest. A plaintiff is a real party in interest when he is the one who has a legal right to enforce or protect.[12]

In cases wherein the alleged heirs of a decedent, in whose name a property was registered, sue to recover the said property through the institution of an ordinary civil action, such as a complaint for reconveyance and partition or nullification of transfer certificate of titles and other deeds or documents related thereto, the Court has consistently ruled that a declaration of heirship is improper in an ordinary civil action because the matter is within the exclusive competence of the court in a special proceeding. In the case of *Portugal v. Portugal-Beltran*,^[13] the Court wrote:

The common doctrine in *Litam*, *Solivio* and *Guilas* in which the adverse parties are putative heirs to the estate of a decedent or parties to the special proceedings for its settlement is that if the special proceedings are pending, or if there are no special proceedings filed but there is, under the circumstances of the case, a need to file one, then the determination of, among other issues, heirship should be raised and settled in said special proceedings. Where special proceedings had been instituted but had been finally closed and terminated, however, or if a putative heir has lost the right to have himself declared in the special proceedings as co-heir and he can no longer ask for its re-opening, then an ordinary civil action can be filed for his declaration as heir in order to bring about the annulment of the partition or distribution or adjudication of a property or properties belonging to the estate of the deceased.^[14] (Emphasis supplied)

In the case at bench, while the complaint was denominated as an action for annulment of instrument, a review of the allegations therein reveals that the right being asserted by the petitioners is their right as heirs of Spouses Eugenio.

The petitioners, however, have yet to substantiate their claim as the legal heirs of Spouses Eugenio who are, thus, entitled to the subject property. Neither is there anything in the records of this case which would show that a special proceeding had been instituted to have themselves declared as heirs of Spouses Eugenio. Thus, there is a need to establish their status as such heirs in the proper forum.

By way of exception, the need to institute a separate special proceeding for the determination of heirship may be dispensed with if it appears from the records of the case that the only property left by the decedent was the subject matter of the case and that the parties had already presented evidence to establish their right as heirs of the decedent,^[15] or when a special proceeding had been instituted but had been finally closed and terminated, and hence, could not be re-opened.^[16]

Here, none of the foregoing exceptions, or any of similar nature, appears to exist. Moreover, the petitioners failed to substantiate their claim that they were the heirs of Spouses Eugenio because first, based on the testimony of petitioner Juanita Reyes, it appeared that Spouses Eugenio had other children aside from those mentioned in the

complaint.[17] Second, the petitioners did not submit the death certificates of Spouses Eugenio. Finally, the entry at the back of the copy of OCT No. 15218, which was the subject of the sale between the heirs of Spouses Eugenio and a certain Josefa Z. Cu, indicated that Spouses Eugenio had left only four (4) children contrary to what the petitioners alleged in their complaint.

Thus, with these circumstances, there is a greater necessity for the institution of a special proceeding for the determination of the lawful heirs of Spouses Eugenio.

The RTC properly dismissed
the case for lack of cause of
action

The RTC's dismissal of the case for failure to state a cause of action should be treated as dismissal for lack of cause of action for it was made after the trial on the merits.

In his book entitled Remedial Law Compendium,[18] Justice Florenz D. Regalado, a recognized commentator on remedial law, explained the distinction between failure to state a cause of action and lack of cause of action:

What is contemplated, therefore, is a failure to state a cause of action which is provided in Sec. 1(g) of Rule 16. This is a matter of insufficiency of the pleading. Sec. 5 of Rule 10, which was also included as the last mode for raising the issue to the court, refers to the situation where the evidence does not prove a cause of action. This is, therefore, a matter of insufficiency of evidence. Failure to state a cause of action is different from failure to prove a cause of action. The remedy in the first is to move for dismissal of the pleading, while the remedy in the second is to demur to the evidence, hence reference to Sec. 5 of Rule 10 has been eliminated in this section. The procedure would consequently be to require the pleading to state a cause of action, by timely objection to its deficiency; or, at the trial, to file a demurrer to evidence, if such motion is warranted.

As the rule now stands, the neglect to invoke the ground of failure to state a cause of action in a motion to dismiss or in the answer would result in its waiver. The reason for the deletion is that failure to state a cause of action may be cured under Section 5, Rule 10 of the Rules of Court:[19]

Section 5. Amendment to conform to or authorize presentation of evidence. — When issues not raised by the pleadings are tried with the express or implied consent of the parties they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so with liberality if the presentation of the merits of the action and the ends of substantial justice will be subserved thereby. The court may grant a continuance to enable the amendment to be made.

In this case, the ground of failure to state a cause of action was indeed waived because the respondents did not raise the same in a motion to dismiss or in their answer. The RTC continued to try the case and even attempted to determine if the petitioners were the lawful heirs of Spouses Eugenio. After examining the records, the Court is of the view that it is better to first resolve the issue of heirship in a separate proceeding.

The ground for dismissal being that the petitioners are not the real parties-in-interest, it was premature on the part of the RTC and the CA to declare that the respondents are buyers in good faith. Hence, this judgment is without prejudice to the filing of an action for annulment of instrument and/or reconveyance of property against the proper parties after a determination of the lawful heirs of Spouses Eugenio in a separate proceeding.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Carpio, (Chairperson), Brion, and Del Castillo, JJ., concur.
Leonen,, J., on official leave.

[1] Penned by Associate Justice Jane Aurora C. Lantion with Presiding Justice Vicente S.E. Veloso and Associate Justice Eduardo B. Peralta, Jr., concurring; rollo, pp. 58-67.

[2] Id. at 69-70.

[3] Penned by Judge Charles A. Aguila; records, pp. 219-244.

[4] Id. at 292-294.

[5] Id. at 61-62.

[6] Id. at 66.

[7] Rollo, pp. 82-87.

[8] Id. at 92-103.

[9] Section 3(a), Rule 1, Rules of Court.

[10] Section 3(c), Rule 1, Rules of Court.

[11] Section 2, Rule 3, Rules of Court.

[12] Reyes V. Enriquez, G.R.No. 162956, April 10, 2008, 551 SCRA 86, 92.

[13] 504 Phil. 456 (2005).

[14] Id. at 469.

[15] Heirs of Ypon v. Ricaforte, 713 Phil. 570, 577 (2013).

[16] Id.

[17] TSN, September 8, 2005, pp. 3-6.

[18] Volume I, Ninth Revised Ed. (2005), p. 182.

[19] Pacaña v. Rovila Water Supply, Inc., 722 Phil. 460, 473 (2013).

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