

FRANCISCO PERIQUET, PETITIONER, VS. HON. JUDGE ANDRES REYES, COURT OF FIRST INSTANCE OF RIZAL, ET AL., RESPONDENTS.

G.R. No. 23886. December 29, 1967

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

In the present petition for Mandamus and Certiorari, Francisco Periquet seeks to compel the respondent Judge of the Court of First Instance of Rizal to approve, certify and elevate the record on appeal in its Civil Case No. 7300, to this Court, or for the declaration of nullity of the Compromise Agreement entered into by the parties in the said Civil Case No. 7300, the decision of the court of March 9, 1964 based thereon, as well as all other orders issued subsequent thereto.

The facts and events that led to the institution of this proceeding, gathered from the pleadings filed by the parties, are as follows:

On May 16, 1951, Maria Suarez, then unmarried, entered into an agreement with Flaviana Muli Vda. de Suarez (her mother), B. Rene Gomez, Marcelo Suarez and Marcial Suarez, to form a corporation to be known as the Suarez Estate, Inc., which will engage in the real estate business.

Pursuant to that agreement, and making use of the initial paid up capital of the corporation,[1] Maria Suarez purchased in her name 20 parcels of land in Mandaluyong, Rizal. Although the Suarez Estate, Inc. was formally incorporated on November 21, 1951, these lots remained registered in her name (TCT Nos. 22657 to 22678). Maria Suarez was married to Francisco Periquet in April, 1953; on December 5, 1954, she died.

Proceedings for the settlement of the estate of the deceased Maria Suarez was commenced in the Court of First Instance of Rizal (Sp. Proc. 2169) upon petition of Flaviana Muli Vda. de Suarez, and the Philippine Trust Company was duly appointed, and qualified, as Special Administrator. As in the inventory therein submitted by the Special Administrator, the 20 parcels of land abovementioned were included among the assets of the deceased, the Suarez Estate, Inc., B. Rene Gomez, Marcial Suarez and the heirs of Marcelo Suarez, who had also died, filed a complaint in the Court of First Instance of Rizal (Civ. Case No. 7300), against the Special Administrator of the estate of Maria Suarez, Francisco Periquet and Flaviana Muli Vda. de Suarez, to declare the plaintiff corporation as the sole and absolute owner of the 20 parcels of land described therein, and to order their delivery to the said plaintiff corporation. The defendants filed separate answers to the complaint.

On February 29, 1964, the following motion was filed in the case:

"MOTION TO APPROVE THIS COMPROMISE AGREEMENT

"COME NOW the undersigned parties, assisted by their respective counsel; and respectfully move for approval of their Compromise Agreement, and state:

1st. - That the parcels of land involved in this action, covered by Transfer Certificate of Title Nos. 22657 to 22678, inclusive, of the Register of Deeds of Rizal, were purchased and acquired by Maria Suarez (now deceased), Flaviana Muli Vda. de Suarez, B. Rene Gomez, Marcelo Suarez (now deceased), and Marcial Suarez, all of whom were incorporators of the Suarez Estate, Inc., as their capital contributions to said corporation, as evidenced by their Incorporators Preliminary Agreement (Annex 'A' to the complaint), the Deed of Sale with Assumption of Liabilities (Annex 'B' to the complaint);

2nd. - That upon the incorporation of the said Suarez Estate, Inc., on November 21, 1951, the aforesaid parcels of land represented the capital contributions of the five above-named incorporators, notwithstanding the fact that the lots were registered in the name of Maria Suarez;

3rd. - That in the confusion that ensued following the death of Maria Suarez in 1954 and, later, of Marcelo Suarez in 1955, the Suarez Estate, Inc. failed to organize formally as required by law and to carry out its corporate purposes;

4th. - That in view of the aforesaid demise of their two principal co-incorporators, the heirs of said deceased as well as the remaining incorporators have agreed, as by these presents they do hereby agree, not to proceed with the formal organization of the Suarez Estate, Inc., and, instead, to return to each of the incorporators their respective contributions consisting of shares in the parcels of land covered by TCT Nos. 22657 to 22678, inclusive, of the Register of Deeds of Rizal; with the exception of the following parcels which, during the lifetime of the deceased Maria Suarez and Marcelo Suarez, were already sold to the persons enumerated hereunder, to wit:

xxx xxx xxx

(g) Lot 5, Block 370, covered by TCT No. 22670 of the Register of Deeds of Rizal, in favor of the spouses B. Rene Gomez and Trinidad Suarez Gomez, to whom a new transfer certificate of title for said lot should be issued; but said spouses-vendees shall, in addition to the sum of Fourteen Thousand Pesos (P14, 000.00) already paid by them as purchase price of this lot, pay to their co-incorporators as well as the heirs of the deceased co-incorporators the following amounts:

(a) to FLAVIANA MULI VDA. DE SUAREZ, the sum of P3, 333.33;

(b) to FRANCISCO PERIQUET, as surviving spouse of Maria Suarez, the sum of P3, 666.67; and

(c) to MARCIAL SUAREZ and the HEIRS OF MARCELO SUAREZ, the sum of P2, 000.00;

5th. - That the remaining lots involved in this action namely those described in and covered by Transfer Certificates of Title Nos. 22658, 22659, 22660, 22661, 22662, 22666, 22668, 22672, 22673, 22674, 22675, 22676, 22677, and 22678, all of the Register of Deeds of Rizal, are hereby returned to, and henceforth shall in the meantime be owned in common by, the following incorporators and the heirs of the deceased incorporators, the same, or the proceeds thereof if sold, to be partitioned among themselves in the following proportions:

(a) To FLAVIANA MULI VDA. DE SUAREZ, as incorporator-contributor, thirty-three and one-third per cent (33-1/3%);

(b) To the surviving spouse of incorporator-contributor Maria Suarez, FRANCISCO PERIQUET, thirty-six and two-thirds per cent (36-2/3%); and

(c) To incorporators-contributors MARCIAL SUAREZ, B. RENE GOMEZ, and the HEIRS of Incorporator-Contributor MARCELO SUAREZ, thirty per cent (30%);

6th. - That it is hereby agreed by all the parties in Civil Case No. 7300 of this court, Branch VI, for the purpose of this compromise agreement that the remaining Mandaluyong Sub-division lots, which are still in the name of the deceased MARIA SUAREZ, do not form part of her estate, for they actually belong to and are owned by the

incorporators of the Suarez Estate, Inc., as their capital contribution to the corporation which consists of the following:

(The lots were divided into three groups: Group I, consisting of 5 lots, has a total appraised value of P304, 245.00; Group II, consisting of 3 lots, - P312, 870.00; and Group III, consisting of 5 lots - P311, 265.00.)

7th. - That it has been agreed by the parties herein that the three (3) groups of incorporators and heirs of the deceased incorporators shall draw by lots from the three (3) groups listed in paragraph 6th of this compromise agreement and from the result of the drawing, inasmuch as the values of the groups lots vary, hence, the share of FLAVIANA MULI VDA. DE SUAREZ of 33-1/3% and that of FRANCISCO PERIQUET, of thirty-six and two-thirds (36-2/3%) shall be maintained and completed either in cash or in kind. But, if the whole property or if all the lots in the three (3) groups are sold at the same time, the sharing of the selling price shall be maintained in the same proportions as stated in paragraph 5th of this agreement;

8th. - That any other property or sums of money that may hereafter be found to belong or pertain to the defunct Suarez Estate, Inc., or to its incorporators-contributors, as such, shall also be owned by, and divided among, the parties named in paragraph 5th of this agreement in the same pro-portions.

WHEREFORE, it is respectfully prayed that judgment be rendered approving the foregoing compromise agreement, ordering compliance therewith, and directing the Register of Deeds of Rizal to cancel Transfer of Title No. 22670 and to issue in its stead a new transfer certificate of title in the name of the spouses B. Rene Gomez and Trinidad Suarez-Gomez, and cancel also the corresponding title to whoever the same may belong as a result of this compromise.

Manila, for Pasig, Rizal, this 29th day of February, 1964.

(SGD) FRANCISCO PERIQUET

(SGD) FLAVIANA MULI VDA.DE SUAREZ

Defendant

Defendant

Assisted by:

Assisted by:

CELSO B. JAMORA

(SGD) MARCIANO C. SICAT

Counsel for F. Periquet

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1410 Taft Avenue, Manila

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By:

Manila

Counsel for F. M. Vda. de Suarez

(SGD) CELSO B. JAMORA

(SGD) B. RENE GOMEZ

(SGD) MARCIAL SUAREZ

Plaintiff

Plaintiff

(SGD) EUFROSINA I. SUAREZ

(SGD) TEOFISTA ISAGON

Plaintiff

In her own behalf as plaintiff and as legal guardian of Danilo, Marcelo, Jr., Evelyn & Regino,

(SGD) EVELYN I. SUAREZ

All surnamed Suarez, plaintiffs

Plaintiff

(SGD) ELPIDIO I. SUAREZ

Plaintiff

Assisted by:

(SGD) AGUSTIN O. BENITEZ Suite 712 Don Santiago Building Taft Avenue, Manila Counsel for the plaintiffs

On March 9, 1964, the Court of First Instance of Rizal rendered a decision which, after quoting the compromise agreement, reads:

"The foregoing compromise agreement is signed by all the parties and their respective counsel.

"Pursuant to par. 7 of the compromise agreement, the parties on March 7, 1964 drew lots before the Deputy Clerk of Court of this Court to determine which portions of the property in question should go to the parties mentioned in par. 5 of the agreement. As a result of the drawing of lots, reported by the Clerk of Court and affirmed by the parties and their counsel, Group I of the parcels of land in question consisting of five lots -- Lots Nos. 3, 4, 5, 6 and 7 of Block 369 -- enumerated in par. 6 of the Compromise Agreement were adjudicated to the parties Marcial Suarez, B. Rene Gomez and the heirs of incorporators-contributors Marcelo Suarez as their share in the properties in question as incorporators-contributors of the Suarez Estate, Inc., Group II of the parcels of land consisting of three lots -- Lots Nos. 1, 2 and 3 of Block No. 404 -- enumerated in par. 6 of the compromise agreement were adjudicated to the party Flaviana Muli Vda. de Suarez as her share in the properties in question as incorporator-contributor of the Suarez Estate, Inc.; while Group III of the parcels of land in question consisting of five lots -- Lots Nos. 1, 3, 7, 8 and 9 of Block 370 -- enumerated in

paragraph 6 of the compromise agreement were adjudicated as the share of the deceased incorporator-contributor Maria Suarez as such incorporator-contributor represented in the compromise agreement by her surviving spouse Francisco Periquet." (Underscoring ours.)

Consequently, judgment was rendered approving the Compromise Agree-ment, as well as the result of the drawing of lots made by the parties before the Clerk of Court. The Register of Deeds of Rizal was then directed to cancel the certificates of title in the name of Maria Suarez and to issue new ones, among others, those covering Lots Nos. 1, 3, 7, 8 and 9 of Block No. 370 of subdivision plan Psd--9027 of Mandaluyong, Rizal, "in the name of Francisco Periquet, widower, of Quezon City, as surviving spouse of the deceased Maria Suarez."

Under date of March 11, 1964, Francisco Periquet filed a motion to amend the dispositive portion of the decision, in order to include a requirement to the parties to pay whatever balance there may be due to Flaviana Muli Vda. de Suarez and Francisco Periquet, having in mind their respective shares of 33-1/2 and 36-2/3 per cent of the property, plus the sum of P3,666.67 from Rene Gomez. The motion was denied on March 21, 1964.

In another motion dated March 25, 1964, Periquet urged the court to appoint a receiver -

"to hold and preserve the properties during the final disposition of the same according to the compromise agreement and enforce the judgment and carry into effect the proper DISSOLUTION and liquidation of the SUAREZ ESTATE, INCORPORATED; to collect from B. Rene Gomez the Ten Thousand Pesos (P10,000.00) which the spouses promised to pay to the parties mentioned in par. 7 hereof; to investigate further Lot No. 2, of Block No. 369, to sell and distribute its proceeds in accordance with the compromise agreement and to find out if there are other properties belonging to the SUAREZ ESTATE, INC. and likewise dispose of them in accordance with said agreement."

On April 11, 1964, however, Periquet filed a motion to set aside the compromise agreement, the decision, and for new trial,[2] on the ground that he had signed the Compromise Agreement on the mistaken belief that the portion equivalent to 36-2/3% of the properties of the Suarez Estate, Inc. was being allotted to him in his personal capacity. As in the decision, the share was given to him as representative of his deceased wife, Periquet claimed that the Compromise Agreement did not reflect the true intention of the parties. The other parties to the agreement opposed the motion.

By order of May 29, 1964, Periquet motion was denied, the court reasoning, thus:

"Considering that all the parties agreed on, and signed, the compromise, that it was the defendant-movant and his counsel who prepared the document embodying the same and who insisted before the Court at the hearing on February 20, 1964 that the other parties sign the same because it embodied their true agreement for which reason the Court denied the motions of the other parties to defer the signing, and considering further that after the Court rendered its decision based on, and approving the compromise, said defendants sought to have said decision im-plemented or executed, and even asked for a receiver-ship in order that the properties may be disposed of according to the terms of the compromise, the Court is of the opinion and so holds that there is no ground for setting aside, or for reforming or changing, the same and the decision of the Court. Under the circumstances, the movant is estopped to claim that the compromise, as prepared by him and his lawyer, does not express the true intentions of the parties."

Copy of this order was allegedly received by counsel for the movant on July 3, 1964; and on July 6, 1964, he filed a notice of appeal and appeal bond. The record on appeal was filed on July 10, 1964. The plaintiffs and defendant Flaviana Muli Vda. de Suarez opposed approval of the appeal, on the grounds that the decision, based on a Compromise Agreement, is not appealable, and that the decision had already become final. And, when by order of October 3, 1964, the court disallowed the appeal and disapproved defendant's record on appeal, and denied Periquet 's motion for reconsideration of that order, the latter came to this Court charging the Court below of

having abused its discretion in allegedly amending the terms of the compromise agreement and in depriving him of the right to appeal.

Generally, a judgment on a compromise agreement is not only without appeal, but is also immediately executory, the reason being that when the parties agree to settle their differences, to end a pending litigation, and request the court to render judgment based on their said agreement, there is an implied waiver of their right to appeal from the decision.[3] The exception to the rule is provided in case a party to the compromise agreement moves to set it aside on the ground of fraud, mistake or duress; in which event, an appeal would exist from the order denying the motion.[4]

The issue here presented, therefore, is whether or not the case at bar comes within the exception to the general rule, that the denial of petitioner's appeal by the lower court amounted to grave abuse of discretion.

To fall within the exception to the general rule, the moving party must allege vitiated consent to the agreement, by reason of fraud, mistake or duress. But not every act that may be considered fraudulent, erroneous or under duress, can be the basis for annulling a contract. A mistake, specifically, shall invalidate consent only if it refers to the substance of the thing which is the object of the contract, or to the condition which has principally moved one or both parties to enter into the contract (Art. 1331, new Civil Code). In short, the error must be the causal, not merely incidental, factor that induced the complaining party to enter into the agreement.

In the present case, the mistake alluded to by petitioner as having vitiated the voluntariness of his participation in the compromise agreement consisted in the mistaken belief that he would receive the allotted portion in his personal capacity; that the properties would belong to him solely. This would contradict the explicit terminology of the 5th paragraph of the agreement, partitioning the remaining unsold lots among the "incorporators and heirs of the deceased incorporators", and which was drafted by no less than appellant's personal counsel. Considering that from the context of the agreement, it is apparent that it was entered into to determine the properties of the Suarez Estate, Inc. and to fix and deliver the respective shares of the incorporators-contributors, and that it was the wife, Maria Suarez, not the husband Francisco Periquet, who made contribution to the corporation, it cannot really be claimed that the lower court made an alteration of the compromise agreement when it adjudged the 5 lots enumerated in paragraph 6 "as the share of the co-incorporator--contributor Maria Suarez as such incorporator-contributor, represented in the compromise agreement by her surviving spouse Francisco Periquet." That Periquet originally considered this order as in accord with the agreement of the parties is evidenced by the fact that after the judgment was rendered, he filed two motions seeking for its enforcement or execution. Apparently realizing much later the implication of the phraseology of the agreement, as carried out in the decision of the lower court, he belatedly contested the validity and due execution of said compromise agreement.

But assuming that the effect of the wording of paragraph 5 of the agreement was not anticipated by petitioner when he and his counsel prepared the instrument and prevailed on the other parties to sign it, this is not the kind of mistake that would justify nullification thereof. Miscalculation or misappreciation of its legal import, where the party as in this case is assisted by counsel, will not provide basis for setting aside of a compromise agreement on the ground of mistake of error. A compromise, entered into and carried out in good faith, will not be discarded even if there was a mistake of law or fact;[5] and in this case the parties have gone to the extent of drawing lots as provided in the seventh (7) paragraph of the compromise agreement (Decision, Court of First Instance, p. 4). The application of the rule to the present case becomes all the more imperative when it is borne in mind that Periquet's proposal would result in depriving his wife's surviving mother, Flaviana Muli Vda. de Suarez of her hereditary share in this 36-2/3% and vesting all of it upon the husband, contrary to our laws of succession (Civil Code, Art. 997).

Appellant Periquet adverts to the circumstance that in his proposals previous to the final compromise agreement, he had insisted in being personally assigned a share in the properties equal to that granted to his mother-in-law, Flaviana Muli. We find little relevancy in these proposals. The essence of com-promises being mutual concessions by the parties to avoid or end litigation, it is to be expected that neither will be able to maintain his initial demands wholly unaltered. Changes are naturally made in the course of bargaining, and the final agreement rarely coincides with the original terms proposed by either side. Since, as previously remarked, the purpose of the compromise agreement in question, was in its 4th paragraph, "to return to each of the incorporators their respective contributions" to the capital of Suarez Estate, Inc., (as expressed in its paragraph 4) and appellant Periquet was concededly not such an incorporator, while his wife and mother-in-law were, it is difficult to perceive on what basis Periquet could in law or justice demand any portion of the distributed properties except as his wife's representative, nor how he could assert error in his not becoming a distributee in his personal capacity.

Periquet 's argument that the Philippine Trust, as administrator of his late wife's estate did not sign the compromise, is one that is not available to him for evading the effect of his own consent thereto. If at all, only the Administrator may raise the objection, and its prolonged silence is evidentiary of acquiescence to the compromise.

Appellant's contention being plainly untenable, there would be no point in declaring that the Court below abused its discretion in refusing to give due course to the appeal. Even if appellant were technically entitled to a mandamus, the net result would merely be further delay in adjudicating that his case is devoid of merit.

In view of the conclusion thus reached, there is no need to pass upon the question of the timeliness or untimeliness of the appeal filed by petitioner.

WHEREFORE, the petition is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Concepcion, C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.
Dizon, and Fernando, JJ., did not take part.

[1] Of their respective subscriptions to the capital stock, incorporators Maria Suarez paid P50,000; Marcelo Suarez-P20,000.00; B. Rene Gomez - P20,000.00; Marcial Suarez - P10,000.00, and Flaviana Muli Vda. de Suarez - P10,000.00.

[2] The motion was amended on April 22, 1964, to include movant's affidavit of merit.

[3] Serrano et al. vs. Reyes et al., L-16153, Dec. 29, 1960.

[4] De los Reyes vs. Ugarte, 75 Phil. 505; Enriquez vs. Padilla, 77 Phil. 373; Serrano vs. Reyes, supra.

[5] McCarthy vs. Barber Steamship Lines, 45 Phil. 488, 498--499; Berg vs. National City Bank of New York, 102 Phil. 309, 315.

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