

ANA MARIA C. MANGUERRA, PETITIONER, VS. MA. PATRICIA CONCEPCION E. MANGUERRA-ABERASTURI, JOSE MARIANO E. MANGUERRA, CHRISTINE MARTINA E. MANGUERRA, MAMERTO LUIS E. MANGUERRA, JU...

G.R. No. 253426. November 29, 2022

Ponente: GAERLAN, J.

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GAERLAN, J.:

Before the Court is a Petition for Review on Certiorari[1] dated September 30, 2020 filed by Ana Maria C. Manguerra (petitioner), assailing the Decision[2] dated June 17, 2019 and the Resolution[3] dated September 8, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 151780, which: (1) reversed and set aside the Orders dated April 5, 2017[4] and June 16, 2017[5] of the Regional Trial Court (RTC) of Makati City, Branch 56, in SP. Proc. No. M-5599; and (2) ordered the RTC to approve the notice of appeal and record on appeal filed by Ma. Patricia Concepcion E. Manguerra-Aberasturi, Jose Mariano E. Manguerra, Christine Martina E. Manguerra, Mamerto Luis E. Manguerra, Juan Paolo E. Manguerra, and Gregorio Constantino E. Manguerra (Gregorio; collectively, respondents).

Factual Antecedents

On January 27, 2003, petitioner filed a Petition[6] for the probate of the Last Will and Testament[7] of decedent Concepcion A. Cuenco Vda. De Manguerra (decedent) before the RTC of Makati City, docketed as SP Proc. No. M-5599, where she prayed for the allowance of the decedent's will and for her appointment as executor[8] of the estate.

In the will, the decedent expressly designated petitioner as the executor of her estate,[9] and disinherited all but one of her grandchildren from her late son, Mariano Jesus Manguerra, Jr. – the respondents, except Gregorio – from receiving any share of her estate.[10]

The will likewise specified to whom the properties of the estate are to be bequeathed, thus:

SEVENTH – To GREGORIO CONSTANTINO E. MANGUERRA, the remaining grandchild I have with my late son MARIANO JESUS C. MANGUERRA, JR., I give and bequeath, for him to have and to hold, the following:

7.1

Lot No. 903-A-6 of the Banilad Estate under TCT No. 113781 of the Registry of Deeds of Cebu City, 894 square meters, situated behind Redemptorist and Capital Parish Church, Cebu City x x x.

7.2

Cash in an amount equivalent to the balance of his legitime after deducting therefrom the prevailing market value at the time of my death of above property and the cash advances I made to his late father.

EIGHTH – To my daughter, MA. VICTORIA C. MANGUERRA-MONTILLA, I give and bequeath the following:

8.1

A house and lot situated in No. 1820 Luis Ma. Guerrero St., Malate, Manila City x x x.

8.2

Cash in an amount equivalent to the balance of her legitime after deducting therefrom the prevailing market value of the above house and lot at the time of my death and the cash advances I made to her.

NINTH – To my daughter, MA. CECILIA C. MANGUERRA-BRAINARD, I give and bequeath the following:

9.1

A commercial lot and building, situated in No. 31, Polaris Street, Bel-Air I, Makati City x x x.

9.2

Cash in an amount equivalent to the balance of her legitime after deducting therefrom the prevailing market value of the above commercial lot and building at the time of my death.

TENTH – To my daughter, ANA MARIA C. MANGUERRA, I give and bequeath the following:

10.1

An agricultural lot together with all the improvements thereon, 2.8292 hectares, situated in Magsaysay Street, Poblacion, Toledo, Cebu City x x x.

10.2

A residential lot with house and buildings (3039 square meters) situated in No. 873 C.G. Briones Street, Guadalupe, Cebu City x x x.

10.3

All my remaining cash to be found in the bank or banks where I may have deposited the same including the securities for cash and other legal and commercial instruments found therein – after the distributions in Sections SEVENTH, EIGHTH[,] and NINTH shall have been made and completed.

10.4

All my jewelries, genuine and fancy.

ELEVENTH – I give and bequeath my rights and interest in 1) Macovic Development Corporation; 2) Rio Dorado; and 3) CCM Realty Corporation; to be distributed as follows:

11.1 ANA MARIA C. MANGUERRA -

75.00%

11.2 MELLISA M. MONTILLA
(nee) married to LEONARDO JOSE
GONZALES, my granddaughter with
Ma. Victoria and Eduardo Montilla -

12.50%

11.3 MONIKA M. MONTILLA
(nee) married to PEROM TAWNGDEE,
my other granddaughter with Ma.
Victoria and Eduardo Montilla -

12.50%

100%

TWEL[FTH] - All the rest, residues and remainder of my estate, real and personal, whatsoever and wheresoever found, I give, devise[,] and bequeath to my daughter, ANA MARIA C. MANGUERRA.[11]

On April 15, 2003, the RTC issued an Order,[12] which allowed the decedent's will, ordered the issuance of letters testamentary to petitioner, but invalidated the disinheritance provision contained in the will, to wit:

WHEREFORE, finding that the subject Last Will and Testament was duly executed by the testatrix Concepcion A. Cuenca Vda. de Manguerra in accordance with the requirements and formalities prescribed by law, the petition is hereby granted. Accordingly, the said will is hereby declared duly proved and, consequently, hereby allowed.

Likewise, finding the cause for disinheritance under the Sixth Clause of the Last Will and Testam[e]nt not to be one of those set forth in Article 918 of the Civil Code, the disinheritance is hereby deemed invalid, and therefore, oppositors Ma. Concepcion E. Manguerra-Aberasturi, et al[.] shall be entitled to their legitime as compulsory heirs in representation of their father Mariano Jesus C. Manguerra, Jr[.], who predeceased the testatrix.

Accordingly, let letters testamentary be issued to Ana Maria C. Manguerra, who is named executrix in the will, to administer the estate of decedent Concepcion A. Cuenca Vda. de Manguerra, to serve without bond.

However, her authority to sell or dispose of any property of said decedent shall only be for purposes of paying the taxes and debts due to creditors of the estate of the decedent, pending final disposition by this Court of the shares due the compulsory heirs and/or upon approval by this Court.

SO ORDERED.[13]

Petitioner filed a motion for partial reconsideration where she argued that the invalidation of the disinheritance provision was premature. Thereafter, the RTC issued its Order[14] dated July 16, 2003, which granted petitioner's motion and ruled that resolving the issue of disinheritance is premature as it pertains to the intrinsic validity of the will, to wit:

In this case, inasmuch as the issue of disinheritance raised by oppositors-grandchildren in their opposition to the petition for probate of the will, pertains to the intrinsic validity or legality of the provisions thereon in the

will, a determination of the same as passed upon in the Order allowing the Will is indeed premature.

Thus, the Last Will and Testament of the decedent Dna. Concepcion A. Cuenco Vda. de Manguerra having been proved and allowed in the Order dated April 15, 2003, the determination of the validity of the disinheritance can now be ventilated in further proceedings.

Wherefore, petitioner's motion (for partial reconsideration) is hereby granted. x x x[15]

On February 15, 2005, petitioner filed a Motion,[16] praying for the distribution of the properties of the estate to the named devisees and legatees in the will.[17]

After several years of litigation, the RTC finally rendered its Resolution[18] (Partial Distribution Order) dated October 21, 2013, which directed the partial distribution of the decedent's estate. Specifically, the Partial Distribution Order directed the distribution of the: (1) lots and shareholdings bequeathed in favor of petitioner; (2) the shareholdings bequeathed in favor of Melissa Montilla Gonzalez; and (3) the shareholdings bequeathed in favor of Monika Montilla Tawngdee.[19]

In the Partial Distribution Order, the RTC also noted that the properties bequeathed in favor of Gregorio have not yet been accepted by him. The RTC thus directed him to submit within five days a Manifestation of his acceptance or rejection of the same.[20]

Respondents filed a Motion for Reconsideration[21] of the Partial Distribution Order, but the same was denied by the RTC in its Order[22] dated February 13, 2014.

Aggrieved, respondents filed their Notice of Appeal[23] and Record on Appeal[24] both dated April 2, 2014, challenging the Partial Distribution Order.

On June 2, 2014, the RTC rendered its Order,[25] which approved the record on appeal and directed the submission of the records to the CA, thus:

There being no objection to the Record on Appeal filed by the oppositors last 2 April 2014, and pursuant to Section 6, Rule 41 of the Rules of Court, said Record on Appeal is hereby APPROVED.

The Branch Clerk of this Court is hereby directed to send the record on appeal to the Honorable Court of Appeals for appropriate disposition.

SO ORDERED.[26]

Notably, while the appeal of the Partial Distribution Order was pending, petitioner filed a Motion for Final Distribution of Remainder of the Estate[27] dated July 28, 2014, which was not opposed by the respondents despite ample opportunity to do so.[28]

On September 17, 2014, the RTC rendered its Resolution[29] (Final Distribution Order), which granted petitioner's motion, to wit:

For resolution is petitioner-Administratrix's Motion for Final Distribution of Remainder of the Estate filed on 30 July 2014. There being no Comment filed by Oppositors, despite having been given ample opportunity to do so, and that up to the present, there is no compliance on the part of Gregorio Constantino Manguerra or his heirs pursuant to the Order dated 21 October 2013, the present motion is hereby ordered GRANTED.

The Court hereby DISTRIBUTES the following properties, by way of completion of the provisions set out in the Will of Tetratrix Concepcion Cuenco Vda. De Manguerra, x x x.[30] (Underscoring supplied; emphases and italics in the original)

In the Final Distribution Order, the RTC directed the distribution of all remaining assets in the decedent's estate,

thereby completing all the provisions set out in the will. The Final Distribution Order likewise ordered that the property bequeathed to Gregorio be reverted back to the estate and distributed in favor of the petitioner, in view of Gregorio's failure to comply with the RTC's directive, which ordered him to manifest his acceptance or rejection of the same.[31]

On September 30, 2014, respondents filed a Motion to Inhibit,[32] which was granted by the RTC. After the re-raffle of the case, respondents filed a Motion for Reconsideration[33] dated October 10, 2014. However, the said motion was denied by the RTC in its Order[34] dated September 7, 2015.

Respondents received the RTC Order denying their motion for reconsideration on September 22, 2015. Thereafter, on October 21, 2015 or 29 days after their receipt of the order of the RTC, respondents filed their Notice of Appeal[35] with attached Record on Appeal,[36] challenging the Final Distribution Order.

On April 5, 2017, the RTC issued its Order,[37] which disapproved respondents' record on appeal for being filed out of time, to wit:

Upon careful evaluation of the record on appeal and the arguments of the parties, the Court is inclined to disapprove the record on appeal filed by Oppositors Manguerra-[Aberasturi], et al. Petitioner is correct that this case has already been finally disposed of and the proper remedy is an ordinary appeal. Considering that Oppositors Manguerra-[Aberasturi], et al., received the assailed Order dated 07 September 2015 on 22 September 2015, they had fifteen (15) days from said date to file a notice of appeal. However, no notice of appeal was filed within the period and instead a record on appeal was submitted on 21 October 2015. Clearly, the period to file an ordinary appeal has prescribed. The Court also notes the fact that Oppositors Manguerra-[Aberasturi], et al., are trying to raise the same issues in the previous record on appeal they have made.

Accordingly, in view of the foregoing, the Notice of Appeal and Record on Appeal dated 21 October 2015 filed by Oppositors Manguerra- [Aberasturi], et al. is hereby DISAPPROVED.

SO ORDERED.[38] (Emphases and italics in the original)

Respondents filed a motion for reconsideration, but the same was denied by the RTC in its Order[39] dated June 16, 2017. Significantly, in the same order, the RTC also granted petitioner's Motion for Issuance of Entry of Judgment,[40] to wit:

It is significant to note, that while a multiple appeal is allowed on this kind of petition, the proceedings must end at some point. The Resolution dated 17 September 2014 involves the final distribution of the remainder of the Estate which ultimately disposes of the principal and core issue in this petition.

Accordingly, let the Resolution dated 17 September 2014 and the Order dated 07 September 2015 be entered in the Book of Entries of Judgment.[41] (Italics in the original)

Ruling of the Court of Appeals

Aggrieved, respondents filed a Petition for Certiorari[42] before the CA, alleging that the RTC committed grave abuse of discretion when it: (1) disapproved their notice of appeal and record on appeal; (2) denied their motion for reconsideration; and (3) ordered that an entry of judgment be issued.[43]

On June 17, 2019, the CA rendered its Decision,[44] which granted respondents' Petition for Certiorari, and ordered the RTC to approve the notice of appeal and record on appeal, thus:

WHEREFORE, the petition is GRANTED. The orders issued by public respondent Bonifacio S. Pascua, in his capacity as Presiding Judge of the Regional Trial Court of Makati City, Branch 56 dated April 5, 2017 and

June 16, 2017, respectively, in SP Proc. No. M-5599 are Annulled and Set Aside. Public respondent is ORDERED to approve the Notice of Appeal and Record on Appeal filed by petitioners and to cause the immediate removal of the resolution dated September 17, 2014 and order dated September 7, 2015 from the Book of Entries of Judgment.

IT IS SO ORDERED.[45] (Emphases in the original)

In ruling in favor of respondents, the CA noted that in special proceedings, the proper mode of appeal from a judgment or final order is by notice of appeal and record on appeal, in accordance with Section 2(a),[46] Rule 41 of the Rules of Court. As Section 3,[47] Rule 41 of the Rules of Court prescribes a period of 30 days within which to file a record on appeal, the CA found that the RTC committed grave abuse of discretion when it disapproved respondents' notice of appeal and record on appeal, since respondents timely filed their appeal.[48]

In compliance with the CA's directive, on July 8, 2019, the RTC issued an Order[49] approving respondents' notice of appeal and record on appeal.

On July 9, 2019, petitioner filed her Motion for Reconsideration [Re: Decision dated 17 June 2019],[50] where she emphasized that a record on appeal is only necessary if the trial court needs to continue with some remaining matters or issues of the case, which requires the trial court to keep the records not relevant or affected by the matters or issues being appealed. Considering that in this case, the RTC already resolved the core issues of the case when it issued the Final Distribution Order, petitioner argued that there was no need for a record on appeal as there is nothing left for the RTC to do. In fine, petitioner averred that with respondents' failure to appeal the Final Distribution Order within the prescribed period of 15 days for a notice of appeal, the same had attained finality.[51]

On September 8, 2020, the CA issued its Resolution,[52] which denied petitioner's motion for reconsideration.

The Instant Petition

Unfazed by the adverse rulings of the CA, petitioner filed the instant petition, raising the following issue:

- THE HONORABLE COURT OF APPEALS GRAVELY AND SERIOUSLY ERRED IN FINDING THAT THE PROPER MODE OF APPEAL FOR JUDGMENTS IN SPECIAL PROCEEDINGS THAT COMPLETELY DISPOSES OF THE CASE IS BY WAY OF NOTICE OF APPEAL AND RECORD ON APPEAL AND NOT BY ORDINARY APPEAL. THIS IS NOT IN ACCORD WITH THE INTENT OF THE APPLICABLE PROVISIONS OF RULE 41 IN RELATION TO RULE 109 OF THE RULES OF COURT OR ON HOW THE HONORABLE SUPREME COURT WOULD HAVE INTERPRETED IT.[53]

On September 6, 2021, respondents filed their Opposition [to Petition for Review on Certiorari dated 30 September 2020],[54] where they prayed for the dismissal of petitioner's petition and argued that the CA correctly found that the RTC committed grave abuse of discretion in disapproving their notice of appeal and record on appeal.

Issue

The crux of the controversy the Court is now tasked to resolve is whether a record on appeal is still necessary in special proceedings, when the trial court has already completely disposed of the case.

The Court's Ruling

The Petition has no merit.

At the outset, it must be emphasized that in special proceedings, multiple appeals are allowed. As explained in

Aranas v. Mercado,[55] multiple appeals are allowed in special proceedings because material issues of the case may be determined at various stages thereof, thus:

Multiple appeals are permitted in special proceedings as a practical recognition of the possibility that material issues may be finally determined at various stages of the special proceedings. x x x[56] (Emphasis supplied)

Relatedly, Section 2(a), Rule 41 of the Rules of Court[57] provides that the proper mode of appealing judgments or final orders in special proceedings is by notice of appeal and record on appeal, thus:

Section 2. Modes of appeal. –

(a) Ordinary appeal. – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. (Emphasis supplied)

The purpose of requiring a record on appeal in cases where multiple appeals are allowed has been extensively discussed by the Court in *Spouses Lebin v. Mirasol*,[58] thus:

As the foregoing rules further indicate, a judgment or final order in special proceedings is appealed by record on appeal. A judgment or final order determining and terminating a particular part is usually appealable, because it completely disposes of a particular matter in the proceeding, unless otherwise declared by the Rules of Court. The ostensible reason for requiring a record on appeal instead of only a notice of appeal is the multi-part nature of nearly all special proceedings, with each part susceptible of being finally determined and terminated independently of the other parts. An appeal by notice of appeal is a mode that envisions the elevation of the original records to the appellate court as to thereby obstruct the trial court in its further proceedings regarding the other parts of the case. In contrast, the record on appeal enables the trial court to continue with the rest of the case because the original records remain with the trial court even as it affords to the appellate court the full opportunity to review and decide the appealed matter.[59] (Emphasis supplied; citation omitted)

From the foregoing, it is clear that the purpose of a record on appeal is to allow the lower court to continue with the rest of the case considering that the records, which do not pertain to the matter being appealed, remains with the lower court. This also allows the appellate court the full opportunity to review the records, and to resolve the appealed matter without hindrance.

In this case, the RTC, in its Order dated April 5, 2017, stated that the case has been fully disposed of, and thus, the proper remedy is filing a notice of appeal. Indeed, the ratiocination behind such ruling appears to be sound because when the case is fully disposed of and resolved by the lower court, it seems that there is no need for a record on appeal because the lower court has nothing left to do and such record on appeal would serve no purpose. In fact, in *Republic v. Nishina*[60] (*Nishina*), the Court stated that "the filing of a record on appeal was not necessary since no other matter remained to be heard and determined by the trial court x x x." [61]

Nevertheless, *Nishina* is not squarely applicable in this case because *Nishina* involves a petition for cancellation of birth records and change of name, and not a matter covered by Section 1, Rule 109 of the Rules of Court where multiple appeals are allowed.

More compellingly, the current Rules do not specify that a record on appeal is only required when the whole case is not yet fully disposed of. In other words, while it is possible that there would be no need for a record on appeal when the case is fully disposed of, the requirements under the Rules of Court, specifically Section 2(a), Rule 41,

still stand. Thus, in special proceedings, and in other cases of multiple and separate appeals, a record on appeal must be filed together with a notice of appeal.

In *Bruar v. Contreras*,^[62] the Court declared that both a notice of appeal and a record on appeal are required in appealing final orders in special proceedings:

Thus, the rules are clear. While it is not necessary that a notice of appeal and a record on appeal be filed simultaneously, the rule is unequivocal that the notice of appeal and record of appeal shall be filed within 30 days from notice of the judgment or final order.

Here, considering that the respondents intended to appeal the final order of the denial of their motion for intervention in the special proceedings case, they should have filed both a notice of appeal and a record on appeal within the period prescribed by the rules.

x x x x

There is ample jurisprudence holding that both a notice of appeal and a record on appeal are required for appealing final orders in a special proceeding case. Here, respondents' long delayed filing of the record on appeal without any justifiable reason clearly violated the settled rules thereon.^[63] (Underscoring supplied; emphasis in the original; citation omitted)

Given all the foregoing, the respondents should not be faulted for relying on the express provisions of the Rules. To reiterate, Section 3, Rule 41 of the Rules of Court states, in no uncertain terms, that when a record on appeal is required, the same shall be filed within 30 days from notice of the judgment or final order being appealed. Thus, the CA correctly ordered the RTC to approve respondents' notice of appeal and record on appeal because respondents satisfied all the requirements under the Rules.

On another note, a review of the records of the case reveals that the RTC's conclusion – that the case is fully disposed of – is doubtful. To recall, respondents' appeal of the Partial Distribution Order was still pending when the RTC issued the Final Distribution Order. Likewise, despite the issuance of the Final Distribution Order, respondents still had several remedies to enforce their shares in the estate. Indubitably, it cannot be said that there was nothing left to be done on the part of the RTC.

Simply put, a record on appeal was certainly required to challenge the Final Distribution Order. All in all, the Court finds that the CA unerringly reversed the RTC's Order dated April 5, 2017, which disapproved respondents' notice of appeal and record on appeal because respondents aptly observed the proper procedure when they timely filed their notice of appeal and record on appeal.

WHEREFORE, the Petition for Review on Certiorari dated September 30, 2020 filed by Ana Maria C. Manguerra is DENIED. The Decision dated June 17, 2019 and the Resolution dated September 8, 2020 of the Court of Appeals in CA-G.R. SP No. 151780 are AFFIRMED.

SO ORDERED.

Leonen, SAJ., Caguioa, Hernando, Inting, Zalameda, M. Lopez, Rosario, J. Lopez, and Kho, Jr., JJ., concur.
Gesmundo, C.J., see separate concurring opinion.

Lazaro-Javier, J., please see concurrence.

Dimaampao, [*] J., on official leave.

Marquez, [*][*] J., on official business.

Singh, J., please see separate opinion.

[*] On official leave.

[*][*] On official business.

[1] Rollo, pp. 3-30.

[2] Id. at 34-41; penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Apolinario D. Bruselas, Jr. and Geraldine C. Fiel-Macaraig, concurring.

[3] Id. at 43-44.

[4] Id. at 81-82.

[5] Id. at 83-85.

[6] Id. at 131-134.

[7] Id. at 135-141.

[8] "Executrix" in the original document; A.M. No. 21-11-25-SC; RE: PROPOSED RULES ON THE USE OF GENDER-FAIR LANGUAGE IN THE JUDICIARY AND GENDER-FAIR COURTROOM ETIQUETTE, p. 8; approved on February 15, 2022.

[9] Rollo, p. 139.

[10] Id. at 136-137.

[11] Id. at 137-139.

[12] Id. at 144-153; penned by Pairing Judge Zeus C. Abrogar.

[13] Id. at 152-153.

[14] Id. at 154-158; penned by Acting Presiding Judge Oscar B. Pimentel.

[15] Id. at 155.

[16] Id. at 159-163.

[17] Id. at 162.

[18] Id. at 316-325.

[19] Id. at 324-325.

[20] Id. at 325.

[21] Id. at 326-337.

[22] Id. at 352.

[23] Id. at 355-356.

[24] Id. at 358-362.

[25] Id. at 363.

[26] Id.

[27] Id. at 364-370.

- [28] Id. at 86.
- [29] Id. at 86-87.
- [30] Id. at 86.
- [31] Id. at 87.
- [32] Id. at 386-390.
- [33] Id. at 88-102.
- [34] Id. at 107-111.
- [35] Id. at 115-116.
- [36] Id. at 117-123.
- [37] Id. at 81-82.
- [38] Id. at 81.
- [39] Id. at 83-85.
- [40] Id. at 391-394.
- [41] Id. at 84.
- [42] Id. at 45-79.
- [43] Id. at 60.
- [44] Id. at 34-41.
- [45] Id. at 40.
- [46] RULES OF COURT (1997), Rule 41, Sec. 2, par. (a) provides:

Section 2. Modes of appeal. -

(a) Ordinary appeal. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where law on these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. (Emphasis supplied).

- [47] RULES OF COURT (1997), Rule 41, Section 3 provides:

Section 3. Period of ordinary appeal. -The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellants shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order. x x x
The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed (Emphasis supplied).

- [48] Rollo, pp. 39-40.
- [49] Id. at 502-503.
- [50] Id. at 479-494.

[51] Id. at 481-483.

[52] Id. at 43-44.

[53] Id. at 13.

[54] Id. at 553-584.

[55] 724 Phil. 174 (2014).

[56] Id. at 186-187.

[57] RULES OF COURT (1997).

[58] 672 Phil. 477 (2011).

[59] Id. at 489.

[60] 649 Phil. 206 (2010).

[61] Id. at 212. Italics in the original.

[62] G.R. No. 205451, March 7, 2022.

[63] Id.

CONCURRING OPINION

GESMUNDO, C.J.:

Before this Court is a Petition for Review on Certiorari dated September 30, 2020 filed by Ana Maria C. Manguerra (petitioner), assailing the Decision dated June 17, 2019 and the Resolution dated September 8, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 151780. The CA reversed and set aside the Orders dated April 5, 2017 and June 16, 2017 of the Regional Trial Court of Makati City, Branch 56 (RTC), in SP. Proc. No. M-5599. The CA essentially held that the notice of appeal and record on appeal were timely filed by Ma. Patricia Concepcion E. Manguerra-Aberasturi, Jose Mariano E. Manguerra, Christine Martina E. Manguerra, Mamerto Luis E. Manguerra, Juan Paolo E. Manguerra, and Gregorio Constantino E. Manguerra (collectively, respondents) within the 30-day reglementary period.

This case involves the distribution of the estate of Concepcion A. Cuenco Vda. De Manguerra pursuant to her will, which was subject to probate. After the RTC allowed the decedent's will, it issued Partial Distribution Order regarding the uncontested portions of the estate.[1] Respondents filed a notice of appeal and a record on appeal against said Partial Distribution Order.

After much litigation and while the appeal against the Partial Distribution Order was pending, the RTC issued a Final Distribution Order, which was essentially ruled in favor of petitioner. Respondents filed a notice of appeal and a record on appeal 29 days after the receipt of notice of the Final Distribution Order.[2]

However, the RTC denied the notice of appeal for being filed beyond the 15-day reglementary period.[3] Respondents filed a Petition for Certiorari before the CA ascribing grave abuse of discretion on the part of the RTC when it, among others, disapproved their notice of appeal and record on appeal. Later, the CA ruled in favor of respondents. The CA held that in cases involving multiple appeals, such as the distribution of shares in an estate proceeding, a notice of appeal and record on appeal may be filed within the 30-day period; not the 15-day

reglementary period. Hence, petitioner filed a petition for review on certiorari with the Court.[4]

The ponencia denies the petition. It stated that "x x x the current Rules do not specify that a record on appeal is only required when the whole case is not yet fully disposed of. In other words, while it is possible that there would be no need for a record on appeal when the case is fully disposed of, the requirements under the Rules of Court, specifically Section 2(a), Rule 41, still stand. Thus, in special proceedings, and in other cases of multiple and separate appeals, a record on appeal must be filed together with a notice of appeal." [5]

I respectfully express my concurrence with the conclusions reached by the ponencia.

Record on appeal

Sec. 1, Rule 109 of the Rules of Court states that there can be multiple appeals in special proceedings:

Section 1. Orders or judgments from which appeals may be taken. — An interested person may appeal in special proceedings from an order or judgment rendered by a Court of First Instance or a Juvenile and Domestic Relations Court, where such order or judgment:

(a)

Allows or disallows a will;

(b)

Determines who are the lawful heirs of a deceased person, or the distributive share of the estate to which such person is entitled;

(c)

Allows or disallows, in whole or in part, any claim against the estate of a deceased person, or any claim presented on behalf of the estate in offset to a claim against it;

(d)

Settles the account of an executor, administrator, trustee or guardian;

(e)

Constitutes, in proceedings relating to the settlement of the estate of a deceased person, or the administration of a trustee or guardian, a final determination in the lower court of the rights of the party appealing, except that no appeal shall be allowed from the appointment of a special administrator; and

(f)

Is the final order or judgment rendered in the case, and affects the substantial rights of the person appealing unless it be an order granting or denying a motion for a new trial or for reconsideration.

Accordingly, it is not only the final judgment of the court in a special proceeding, which resolves all the issues

therein, that may be appealed to the appellate court. Rather, there can be multiple appeals depending on the issues involved in a special proceeding. In relation thereto, Sec. 2(a) of Rule 41 provides that both a notice of appeal and a record on appeal should be filed against a judgment or final order of the trial court, to wit:

Section 2. Modes of appeal. —

(a) Ordinary appeal. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where law on these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. (Emphasis supplied)

Verily, in special proceedings or in other cases where multiple or separate appeals are required by the Rules of Court, a record on appeal must be filed, together with the notice of appeal, to assail a judgment or final order by the trial court. On the other hand, Sec. 3, Rule 41 provides the period to institute an appeal when a record on appeal is required, viz.:

Section 3. Period of ordinary appeal. — The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order. (Emphasis supplied)

In *Spouses Lebin v. Mirasol*[6] (*Spouses Lebin*), this Court declared that a judgment or final order in special proceedings is appealed by a record on appeal. A judgment or final order determining and terminating a particular part is usually appealable, because it completely disposes of a particular matter in the proceeding, unless otherwise declared by the Rules of Court. The ostensible reason for requiring a record on appeal, instead of only a notice of appeal, is the multi-part nature of nearly all special proceedings, with each part capable of being finally determined and terminated independently of the other parts. An appeal by notice of appeal is a mode that envisions the elevation of the original records to the appellate court as to thereby obstruct the trial court in its further proceedings regarding other parts of the case. In contrast, a record on appeal enables the trial court to continue with the rest of the case because the original records remain with the trial court even as it affords the appellate court full opportunity to review and decide the appealed matter.[7]

This was reiterated by the Court in *Bruar v. Contreras*[8] (*Bruar*), wherein it held that under Sec. 3 of Rule 41, a party who wants to appeal a judgment or final order in special proceedings has 30 days from notice of the judgment or final order within which to perfect an appeal because he/she needs to file not only a notice of appeal but also a record on appeal that would require the approval of the trial court with notice to the adverse party. In said case, the Court held that since therein respondents intended to appeal the final order of the denial of their motion for intervention in the special proceedings case, they should have filed both a notice of appeal and a record on appeal within the period prescribed by the Rules. Although in both cases of *Spouses Lebin* and *Bruar*, the Court dismissed petitioners' appeal for their failure to timely file a record on appeal.

Likewise, in *Chipongian v. Benitez-Lirio*,[9] it was held that the proper mode of appealing a judgment or final order in special proceedings is by notice of appeal and record on appeal. Under Sec. 3 of Rule 41, a party who wants to appeal a judgment or final order in special proceedings has 30 days from notice of the judgment or final order within which to perfect an appeal because he or she will be filing not only a notice of appeal but also a record on appeal that will require the approval of the trial court with notice to the adverse party.

In this case, the ponente essentially states that respondents properly filed a record on appeal, together with the notice of appeal, and underscored that the case of *Republic v. Nishina*[10] (*Nishina*) does not squarely apply.

Nishina involves a petition for cancellation of birth record and change of surname. The Court held therein that the filing of a record on appeal was not necessary since no other matter remained to be heard and determined by the trial court after it issued the appealed order granting respondent's petition for cancellation of birth record and change of surname in the civil registry. Notably, the RTC therein, in its October 8, 2007 Order, had already granted the petition and directed the Local Civil Registry of Malolos "to cancel the second birth record of Nisaida Sumera Hakamada issued in 1993 [bearing] Registry No. 93-06684 and to change it [in its stead] Registry No. 87-04983, particularly the surname of [therein respondent] from NISAIDA SUMERA NISHINA to NISAIDA SUMERA WATANABE." Accordingly, insofar as the petition for cancellation of birth record and change of surname was concerned, no other matter remained to be heard and determined by the trial court after it issued the appealed order; thus, the filing of a record on appeal was no longer necessary.

However, while Nishina states that it may be possible that a record of appeal is no longer needed to appeal in special proceedings when no other matter remains to be heard by the trial court, the Court did not categorically state that the reglementary period to appeal in special proceedings is reduced to 15 days when only a notice of appeal is required. Conspicuously, the Court did not go so far as to declare that the reglementary period to file an appeal is shortened from 30 days to 15 days because there was a judgment or final order issued by the court in a special proceeding, which can no longer be subjected to multiple appeals.

Accordingly, it cannot be implied that since no record on appeal is required, the 15-day reglementary period for notice of appeal now applies. It bears emphasis that Nishina did not, in any way, amend Sec. 3, Rule 41 of the Rules of Court. There is nothing therein which states that when a record on appeal is no longer mandated in a special proceeding, the reglementary period is shortened to 15 days.

In addition, it might prove problematic if the Court allowed different reglementary periods for various appeals in special proceedings. It would create an unnecessary issue between the parties, such as with the present case, on the applicable reglementary period that will govern the filing of an appeal in a special proceeding. One party may claim that the reglementary period to file a notice of appeal and record on appeal is still 30 days because there are remaining matters to be settled by the trial court. Another party may claim that the reglementary period to file an appeal is only 15 days because there are no more pending issues before the trial court. These conflicting claims on the reglementary period within which to file an appeal in a special proceeding can be avoided if the Court simply adheres to its original, rational, and uniform reglementary period of 30 days whenever a judgment or final order in a special proceeding may be subject to multiple appeals.

In this manner, the litigants and the courts need not have to second-guess the applicable reglementary period to appeal in special proceedings.

The more applicable case here would be *Zayco v. Hinlo, Jr.*,^[11] which involves a petition for letters of administration of a deceased person's estate. There, the decedent's children appealed the trial court's order appointing the grandson of the decedent as administrator of the estate. Their notice of appeal and record on appeal were denied due course by the trial court on the ground that the appealed order was interlocutory and thus, was not subject to appeal, and that even if the appeal was proper, it was however belatedly filed. On certiorari by the decedent's children, the appellate court sustained the trial court. On petition for review, this Court reversed the appellate court, holding that "[a]n order appointing an administrator of a deceased person's estate is a final determination of the rights of the parties in connection with the administration, management and settlement of the decedent's estate," hence, the order was "final" and "appealable."

The Court also held in *Zayco* that the appeal was filed on time – within the 30-day reglementary period. The Court emphasized therein that a record on appeal was obviously necessary as the proceedings before the trial

court involved the administration, management and settlement of the decedent's estate – matters covered by Sec. 1 of Rule 109 wherein multiple appeals are, and in that case, were called for. Consequently, whenever there is a special proceeding involving multiple appeals, the 30-day reglementary period to appeal shall govern.

Further, as properly observed by the ponencia, the Nishina case is not on all fours with the case at bar. For one, Nishina involved a petition for cancellation of birth record and change of surname; while the present petition involves the distribution of shares in the estate. These are two very different special proceedings with different and multiple issues to be settled.

Advance distribution pending appeal

It is also my position that even with the Final Distribution Order, it does not necessarily mean that there are truly no issues left pending before the trial court.

To repeat, the present case involves the distribution of shares in the estate. Sec. 2 of Rule 109 states:

Section 2. Advance distribution in special proceedings. — Notwithstanding a pending controversy or appeal in proceedings to settle the estate of a decedent, the court may, in its discretion and upon such terms as it may deem proper and just, permit that such part of the estate may not be affected by the controversy or appeal be distributed among the heirs or legatees, upon compliance with the conditions set forth in Rule 90 of this rules.[12]

Accordingly, even if there was a final order of distribution and there was an appeal, there can still be an advance distribution of the estate by the trial court for those portions not affected by the controversy or appeal. In that instance, the records of the case should remain with the trial court for that purpose of advance distribution. Thus, it appears that even if there is a final order of distribution, a record on appeal may still be required to be filed by the appellant as the records of the case should remain in the trial court for the purpose of advance distribution pending appeal. In said situation, the reglementary period would still be 30 days – not 15 days as advanced by the ponente.

Notably, the implication of Sec. 2 of Rule 109 was not discussed in Nishina because the petition therein involved the cancellation of birth record and change of surname; and not the distribution of shares in an estate.

Even if there is a final order of distribution of shares in an estate and an appeal is filed by the aggrieved party, there remains a pending issue left in the trial court. Thus, it would be more prudent to file a record on appeal with the appellate court within the 30-day reglementary period so that the records would remain with the trial court, for the purpose of resolving the possible issue of advance distribution of the estate, based on its discretion – particularly those portions of the estate not affected by the controversy or appeal.

Remedy against the non-distribution of the estate

Finally, it must be emphasized that respondents have several remedies to enforce their shares in the estate. In *Heirs of Fran v. Salas*,^[13] the Court discussed the remedies of the heirs who wish to assail the non-distribution of their shares in the estate, to wit:

The non-distribution of the estate, which is vigorously denied by the petitioners, is not a ground for the re-opening of the testate proceedings. A seasonable motion for execution should have been filed. In *De Jesus vs. Daza*, this Court ruled that if the executor or administrator has possession of the share to be delivered, the probate court would have jurisdiction within the same estate proceeding to order him to transfer that possession to the person entitled thereto. This is authorized under Section 1, Rule 90 of the Rules of Court. However, if no motion for execution is filed within the reglementary period, a separate action for the recovery of the shares

would be in order.[14] (Emphases supplied)

Thus, even if the Final Distribution Order becomes final and executory, it is not the end of the road for respondents. They are still afforded a remedy in case of a non-distribution of the shares of the estate against them.

WHEREFORE, I vote to DENY the petition.

[1] Ponencia, pp. 6-7.

[2] Id. at 7-8.

[3] Id. at 8.

[4] Id. at 9-11.

[5] Id. at 13.

[6] 672 Phil. 477 (2011) [Per J. Bersamin, First Division].

[7] Id. at 489.

[8] G.R. No. 205451, March 7, 2022 [Per J. Hernando, Second Division].

[9] 767 Phil. 724, 734 (2015) [Per J. Bersamin, First Division].

[10] 649 Phil. 206 (2010) [Per J. Carpio Morales, Third Division].

[11] 574 Phil. 736 (2008) [Per J. Corona, First Division].

[12] RULES OF COURT, Rule 109, Sec. 2.

[13] 285 Phil. 789 (1992) [Per J. Davide, Jr., Third Division].

[14] Id. at 813-814.

CONCURRENCE

LAZARO-JAVIER, J.:

I concur.

Antecedents

On January 27, 2003, petitioner filed a Petition for the probate of the Last Will and Testament of decedent Concepcion A. Cuenco Vda. De Manguerra (decedent) before the Regional Trial Court of Makati City, docketed as SP Proc. No. M-5599, where she prayed for the allowance of the decedent's will and for her appointment as executor of the estate.

By Order dated April 15, 2003, the Regional Trial Court allowed the decedent's will, ordered the issuance of letters testamentary to petitioner, but invalidated the disinheritance provision contained in the will. She thus filed a Motion for Partial Reconsideration, which was granted. Subsequently, she filed a motion, praying for the distribution of the properties of the estate to the named devisees and legatees in the will.

By Resolution (Partial Distribution Order) dated October 21, 2013, the Regional Trial Court directed the partial

distribution of the decedent's estate. Respondents filed a Motion for Reconsideration of the Partial Distribution Order, which was denied. Aggrieved, they filed their Notice of Appeal and Record on Appeal both dated April 2, 2014, challenging the Partial Distribution Order.

By Order dated June 2, 2014, the Regional Trial Court approved the record on appeal and directed the submission of the records to the Court of Appeals. Notably, while the appeal was pending, petitioner filed a Motion for Final Distribution of Remainder of the Estate, which was not opposed by the respondents despite ample opportunity to do so. By Resolution dated September 17, 2014, the Regional Trial Court granted petitioner's Motion (Final Distribution Order).

On September 30, 2014, respondents filed a Motion to Inhibit, which was granted by the Regional Trial Court. After the re-affle of the case, respondents filed a Motion for Reconsideration dated October 10, 2014, which was denied under Order dated September 7, 2015. They received the order denying their motion on September 22, 2015. Thereafter, on October 21, 2015 or 29 days after their receipt of the order of the Regional Trial Court, they filed their Notice of Appeal with attached Record on Appeal, challenging the Final Distribution Order.

By Order dated April 5, 2017, the Regional Trial Court disapproved respondents' record on appeal for having been filed out of time. It ordained that since the case had already been finally disposed of, the proper remedy was an ordinary appeal which should have been filed within 15 days from receipt of the order denying the motion for reconsideration.

Aggrieved, they filed a Petition for Certiorari with the Court of Appeals, which was granted under Decision dated June 17, 2019. It ordered the Regional Trial Court to approve the notice of appeal and record of appeal and explained that in special proceedings, the proper mode of appealing a judgment or final order is by notice of appeal and record on appeal in accordance with Section 2(a), Rule 41 of the Rules of Court. Since Section 3, Rule 41 of the Rules of Court prescribes a period of 30 days within which to file a record on appeal, the Regional Trial Court committed grave abuse of discretion when it disapproved respondents' timely-filed notice of appeal and record on appeal.

By Order dated July 8, 2019, the Regional Trial Court approved respondents' notice of appeal and record on appeal. Hence, this petition.

I. Section 2(a) and Section 3, Rule 41 of the Rules of Court

An appeal is a statutory or reglementary right. It is availed of only by following strictly what the statute or the regulation states as to the mode and timing of taking it. The relevant provisions in the Rules of Court are clear as regards the mode and timing of an appeal in special proceedings:

Rules of Court, Rule 41, Section 2(a):

Section 2. Modes of Appeal. – (a) Ordinary Appeal. – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where law on these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

Rules of Court, Rule 41, Section 3:

Section 3. Period of ordinary appeal. – The appeal shall be taken within 15 days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within 30 days from notice of the judgment or final order. The period of appeal shall be

interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

What Section 2(a) states is a straightforward and categorical directive that a record on appeal is not required "except in special proceedings..." without qualification. With the same straightforward and categorical mandate, an appellant in a special proceeding case has 30 days from the designated timeline to file both the notice appeal and the record on appeal.

Indeed, the purpose of a record of appeal is to mimic the case records so the latter does not have to be brought to the Court of Appeals and proceedings at the Regional Trial Court could continue. But this is not stated in the relevant provisions of the Rules of Court itself.

The conclusion that the appeal does not call for a record on appeal when the case has been already finally disposed of is a legal conclusion that may or may not be correct all the time. For often, the situations that should inevitably lead to this legal conclusion are not intuitive. It involves a judgment call for which a party in error should not be penalized.

If upheld, we put imprimatur on a rule fraught with prejudicial ambiguity that imposes the burden upon a party to determine for herself or himself whether a record on appeal should be filed and whether the appeal period is 30 days or 15 days. This rule would only foment needless litigation on procedural matters to the detriment of enabling substantive resolutions. This we cannot allow.

II. Relevant jurisprudence

In any case, there is authority to the effect that the mode of appeal and thus the time for taking the appeal is the same in cases where multiple appeals could or did in fact happen. We find this language in *Republic v. Nishina*, thus:

The appellate court's reliance on *Zayco v. Hinlo, Jr.* in denying petitioner's motion for reconsideration is misplaced. In *Zayco* which was a petition for letters of administration of a deceased person's estate, the decedent's children appealed the trial court's order appointing the grandson of the decedent as administrator of the estate. Their notice of appeal and record on appeal were denied due course by the trial court on the ground that the appealed order is interlocutory and not subject to appeal. But even if the appeal were proper, it was belatedly filed. On certiorari by the decedent's children, the appellate court sustained the trial court. On petition for review, this Court reversed the appellate court, holding that "[a]n order appointing an administrator of a deceased person's estate is a final determination of the rights of the parties in connection with the administration, management and settlement of the decedent's estate," hence, the order is "final" and "appealable." The Court also held that the appeal was filed on time.

In *Zayco*, unlike in the present case, a record on appeal was obviously necessary as the proceedings before the trial court involved the administration, management and settlement of the decedent's estate – matters covered by Section 1 of Rule 109 wherein multiple appeals could, and did in that case, call for them. (Emphasis supplied)

III. Application

Here, since the appeal was from a case under special proceedings – the probate of the decedent's last will and testament – wherein multiple appeals could happen, respondents correctly relied upon the express and clear provisions of Section 2(a) and Section 3 of Rule 41.

At any rate, there was still a pending issue before the Regional Trial Court as regards the Partial Distribution Order as it remained the subject of an appeal before the Court of Appeals. Verily, the proceedings before the trial

court had not yet come to an end when the order appealed from was issued. Hence, the Regional Trial Court had no basis to fault respondents in appealing from the assailed order through a record on appeal and within 30 days from their receipt of the same.

All told, the notice of appeal and record on appeal were timely filed.

THUS, I vote to deny the present petition and affirm the Decision dated June 17, 2019 and the Resolution dated September 8, 2020 of the Court of Appeals in CA-G.R. SP No. 151780.

CONCURRING OPINION

SINGH, J.:

I concur with the esteemed ponencia's conclusion that respondents observed the proper procedure when they timely filed their notice of appeal and record on appeal.[1] Thus, the Petition for Review on Certiorari should be denied.

As expressed in my original position, the Rules of Court is clear as to the necessity of a record on appeal in special proceedings. Nevertheless, when the trial court has fully disposed of all matters in a case, there is no reason for the same to hold on to the records, or portions thereof, when an appeal is taken by a party. This is our ruling in *Republic v. Nishina* (Nishina)[2]. In Nishina, a record on appeal was no longer required, and a notice of appeal was declared sufficient.

However, I respectfully submit this clarificatory concurring opinion to discuss two points.

I express my agreement with the ponencia's pronouncement that Nishina is not applicable in this case. It reasoned that Nishina is inapplicable because the same involves a petition for cancellation of birth records and change of name, and not a matter covered by Section 1, Rule 109 of the Rules of Court, where multiple appeals are allowed.[3]

I clarify.

To recall, in Nishina, the Office of the Solicitor General correctly argued that a record on appeal was not required because the case involved a petition for correction of entries in the Civil Registry, and with the grant of the petition, there was no matter left for adjudication by the trial court.

The present case involves the distribution of the remaining assets in the decedent's estate, a special proceeding which is properly appealed by filing a notice of appeal and a record on appeal, in accordance with Section 2(a), Rule 41 of the Rules of Court.

The inapplicability of Nishina stems from the fact that there was nothing left for the trial court to adjudicate after granting the petition for cancellation of birth record and change of surname in the civil registry. In Nishina, there was no matter left for the trial court to adjudicate because it had already granted the petition to cancel the birth record and change of surname. Thus, leaving parts of the record with the trial court serves no practical purpose, the case having been resolved in full.

Nishina cannot be likened to the present case. As rightly pointed out by the ponencia, it cannot be said that the trial court has resolved all pending matters in the case, given the several remedies still available to the parties to secure their shares in the estate.[4]

The Rules of Court state that a record on appeal shall not be required except in special proceedings and other

cases of multiple or separate appeals where the law or these Rules so require. As special proceedings generally require a record on appeal to perfect the same, it is not beyond reason for litigants to assume that they have 30 days to perfect their appeal.

In the present case, the respondents filed their Notice of Appeal with the Record on Appeal on October 21, 2015, or 29 days after their receipt of the order of the Regional Trial Court denying their motion for reconsideration.

Thus, to apply the pronouncement in *Nishina*, which did not involve the same facts, would be tantamount to penalizing the party litigants for following the Rules of Court. Moreover, because of the clear wording of the rule, we should not leave it to the parties' discretion whether to comply with the rule or not.

Based on the foregoing, I therefore vote to DENY the petition.

[1] Ponencia, p. 14.

[2] 649 Phil. 206 (2010).

[3] Ponencia, p. 13.

[4] *Id.* at 14.

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