

JOSE C. TAYENGCO, SUBSTITUTED BY HIS HEIR, ELIZABETH S. TAYENGCO, PETITIONER, VS. THE HON. RICARDO J. ILARDE, IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE O...

G.R. No. 60076. March 22, 1990

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a petition for certiorari and prohibition to annul the orders dated July 31, 1981 and December 28, 1981 of the then Court of First Instance of Iloilo, Branch V, in Civil Case No. 2841, requiring Jose Tayengco (now deceased and substituted by Elizabeth S. Tayengco) to render and submit within sixty (60) days from receipt of the order, an accounting of the rentals of the buildings and/or apartments which the trial court had adjudged to be co-ownership properties of himself and the private respondents.

Jose C. Tayengco was married to Salvacion Sydeco Tayengco, sister of the private respondents, Mary Sydeco-Tayengco and Conchita Sydeco-Hautea, Nenita, Elenito and Ramonito, all surnamed Militante, are heirs of the deceased Rosario Sydeco-Militante, another sister of Salvacion. Both Jose and Salvacion are now dead.

On May 22, 1953, Cu Bie, mother of Mary, Conchita, Salvacion and Rosario, all surnamed Sydeco, filed a complaint against Salvacion and her husband, Jose (Civil Case No. 2841), to recover certain property allegedly belonging to her and her husband, Juan Sydeco, who in 1927, allegedly entrusted P10,000 to his son, Cipriano Sydeco, to be invested in a business. Cipriano opened a store in Iloilo City, but when he moved to Manila, he left the store under the management of his sister, Salvacion, and her husband, Jose Tayengco. The plaintiffs (Cu Bie was joined by her daughters, Mary and Conchita, and the children of Rosario) alleged that all the pieces of real property owned, possessed, and titled in the names of Jose and Salvacion Tayengco were derived from the P10,000 left by Juan Sydeco to Cipriano in 1927, hence, respondents claim that they are co-owners of all the properties held by Jose and Salvacion Tayengco.

In his answer, Tayengco denied that Juan Sydeco left P10,000 to Cipriano. He alleged that the store which Cipriano set up belonged to the latter and he brought the stocks with him when he moved to Manila in 1933; that the partnership between Salvacion Tayengco and Conchita Sydeco-Hautea was dissolved when its stock in trade was destroyed by a fire during the Japanese war; and that all the properties under litigation are conjugal properties of Jose and Salvacion Tayengco.

On May 20, 1979, the private respondents filed a Petition for Receivership of Tayengco's properties. Tayengco vigorously opposed the petition for receivership, on the grounds that:

- a receiver may not be appointed to remove real property from his (Tayengco's) possession before final judgment in the case;
- he has judiciously administered the properties;

- there is no danger that the properties will be lost or removed because they are all real estate, and subject to a notice of lis pendens; and
- the properties are already in custodia legis in Special Proceedings No. 2186, "In Re Intestate Estate of the Late Salvacion Sydeco Tayengco," pending in the CFI of Iloilo, Branch III.

Nevertheless, the trial court, on August 13, 1979, granted the petition for receivership and appointed the Traders Royal Bank receiver of the properties of Jose and Salvacion Tayengco.

On May 22, 1979, the trial court rendered judgment in Civil Case No. 2841, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

"1. Declaring the parties hereinafter named as co-owners pro-indiviso of

"a) Lot No. 240-B-2 and Lot No. 712-B-2 covered by TCT No. 1360

"b) Lot No. 317-B-3-C covered by TCT No. 1731 (T-14786)

"c) Lot No. 236-B covered by TCT No. 2467

"d) Lot No. 233 covered by TCT No. 2468

"e) Lot No. 317-A and Lot No. 236-A covered by TCT No. 2469

"f) Lot No. 4321 and Lot No. 4327 covered by TCT No. 3773

"g) Lot No. 797-B, Lot No. 540-A and Lot No. 540-C covered by TCT No. 5239; and

"h) Lot No. 4326-A-1 covered by TCT No. 4923, all

of the Registry of Deeds for the City of Iloilo together with all the buildings and improvements thereon existing, in the following proportion: 1/4 to Mary Sydeco Tayengco; 1/4 to Conchita Sydeco Hautea; 1/4 to the heirs of Salvacion Sydeco Tayengco and 1/4 to the heirs of Rosario Sydeco Militante, namely, Nenita, Elenito and Ramonito, all surnamed Militante;

"2. Ordering the Register of Deeds of Iloilo City to cancel the certificates of title of Jose Tayengco covering the aforementioned real properties and to issue in lieu thereof upon payment of the necessary fees, new transfer certificates of title in the names of the above-named parties as co-owners pro-indiviso of the properties therein described in the proportion hereinabove specified;

"3. Declaring as legal and valid the real estate mortgages constituted by the defendant Jose Tayengco on the aforementioned co-ownership properties in favor of the defendant Bank of the Philippine Islands, as evidenced by the 'Escritura de Credito En Cuenta Con Hipoteca' dated August 31, 1948. 'Ampliacion De Credito En Cuenta Corriente' dated October 4, 1949 and 'Ampliacion De Credito En Cuenta Corriente' dated September 21, 1951 (Exhs. 'A,' 'A-1' and 'A-2');

"4. Directing the parties to divide and partition the said properties in the proportion hereinabove specified and to submit to this Court for confirmation within sixty (60) days from finality of decision, the corresponding project of partition and should they fail to do so, the Court shall appoint commissioners to make the partition;

"5. Ordering the defendant Jose Tayengco to account for all the rents of the buildings and/or apartments on the co-ownership properties collected from the time the said buildings were constructed in 1949 until the present and for all the incomes, profits and earnings of the SYDECO store at 69-71 Aldeguer St., Iloilo City covering the period from 1945 until the time the plaintiffs took over the same in 1953 and to submit to the Court the

written accounting of said rentals, income, profits and earnings, within sixty (60) days from finality of this decision and deliver and pay to the parties their respective shares therein in the proportion hereinabove specified within thirty (30) days from the approval by the court of said accounting;

"6. Ordering the defendant Jose Tayengco and the estate of Salvacion Sydeco Tayengco thru its administrator Jose Tayengco, jointly and severally, to pay plaintiffs the sum of P30,000.00 for and as attorney's fees plus the costs of this suit;

"7. Dismissing the counterclaim of defendants Jose Tayengco and Salvacion Sydeco Tayengco for lack of merit; and

"8. Dismissing the counterclaim of defendant Bank of the Philippine Islands, the plaintiffs having acted in good faith and there being no showing of malice on their part in filing the complaint against said defendant." (pp. 76-78, Rollo.)

Petitioner appealed to the Court of Appeals where the case was docketed as CA-G.R. No. CV-67793. During the pendency of the appeal, the private respondents filed in the trial court a motion for accounting which petitioner opposed. The trial court, despite its having lost jurisdiction over the case, granted the motion for accounting in its orders dated July 31, 1981 and December 28, 1981. The petitioner came to this Court directly on a petition for certiorari alleging:

1. that the trial court acted without or in excess of its jurisdiction and with grave abuse of discretion in ordering the petitioner (Tayengco) to render an accounting after the case had been appealed and in effect ordered partial execution of its decision which was pending appeal; and

2. that supervening actuations of the trial court have burdened the properties under receivership with unnecessary fees and expenses prejudicial to the interest of the parties and confirming the gross inequity of the receivership.

While this petition was pending in this Court, Elizabeth Tayengco, who substituted her father, Jose Tayengco, who died on February 1, 1988 filed an "Ex-Parte Motion for Early Disposition of Case" because on April 23, 1983, the Intermediate Appellate Court rendered judgment in CA-G.R. CV No. 67793 reversing the decision of the Court of First Instance of Iloilo dated May 22, 1979, and holding that the properties under receivership were not co-ownership property of the Sydeco family, but were owned exclusively by the spouses Jose C. Tayengco and Salvacion Sydeco-Tayengco. Cu Bie, et al. appealed to this Court ("Cu Bie, et al. vs. Intermediate Appellate Court, et al.," G.R. No. 63855). On October 9, 1987, this Court affirming the decision of the Appellate Court held:

"The Appellate Court cannot, therefore, be said to have gravely abused its discretion in finding a lack of convincing and reliable evidence to establish the creation of the fund, a fact on which the petitioners' cause is rooted. x x x.

"As to the other facts in dispute, the Appellate Court correctly weighed the evidence and found it insufficient to support the petitioners' claim that the funds used by the Tayengco spouses to acquire the properties in dispute in 1942-49 are directly traceable to the common fund, and its accretions, allegedly set up in 1927 or before. x x x. Inasmuch as no adequate proof exists of facts constituting the basic premises of the petitioners' theory that Jose Tayengco was a mere agent of the Sydeco heirs when the purchases of the disputed lands were affected, the issue of whether or not such a fiduciary relationship existed must be resolved against the petitioners.

"It must be emphasized at this point that the claim that the lands are impressed with an implied trust is asserted to nullify Torrens Certificates of Title which are meant to evidence the absolute title to the property of the owners named therein, against the whole world. In the present case, pitted against such titles are mere assertions of the petitioners that they agreed to the purchases of the land with the common fund, although the

properties were to be placed in the Tayengcos' names exclusively. As has been pointed out, evidence of the establishment of the common fund is very inadequate. As to the alleged agreement between the members of the Sydeco family, at the time the properties were purchased, Conchita and Salvacion were no longer on speaking terms, Rosario was already dead while her husband Ramon Militante and Conchita's husband Jose Hautea were not informed of the purchases, and Cu Bie admitted knowing of the acquisitions but could not even say whether Conchita agreed to them or not because she (Cu Bie) '(had) not talked to her (Conchita) about it.' On the other hand, the details of the sales were known to the spouses, and subsequent transactions involving the lands appear to have been decided upon and entered into by them only. Thus buildings and other improvements were constructed on the lands, and to finance those undertakings, the Tayengcos executed real estate mortgages, without the other Sydeco family members appearing to have had any intervention in these matters. There is no evidence that the decision to sell other parcels of land was arrived at and carried out by persons other than the spouses. Only the Jose Tayengcos, therefore, have been shown to have exercised acts of ownership over the properties in question, which circumstance tends to strengthen their contention that the lands are owned by them exclusively." (Cu Bie vs. IAC, 154 SCRA 599, 607-609.)

That decision having become final and executory, the herein petitioner filed a motion praying:

1. that the receivership be immediately terminated; and
2. that the receiver, Traders Royal Bank, be ordered to render a true and faithful accounting of its administration of the properties, rents, income and assets placed under receivership, and, to return to the petitioner the possession of all the properties, rents, income and assets under receivership (pp. 446-447, Rollo).

The motion is well taken. The decision in G.R. No. 63855 (154 SCRA 599), adjudging the deceased spouses Jose and Salvacion Tayengco to be the lawful owners of the properties in question, resolves the issue of the improvidence of the trial court's order appointing a receiver for them. The receivership should be lifted and set aside without further delay to put an end to the prejudice and injury that it has inflicted on the lawful owners, the Jose Tayengcos. Said properties should be immediately restored to the estates of Jose and Salvacion Tayengco.

WHEREFORE, the petition for certiorari is granted. The orders dated July 31, 1981 and December 28, 1981 of the Court of First Instance of Iloilo are hereby annulled and set aside. The trial court, after due notice and hearing, shall settle the accounts of the receiver, the Traders Royal Bank, direct the delivery of the funds and other property in its hands to the petitioner, Elizabeth S. Tayengco, as executrix of the estate of her deceased parents, Jose and Salvacion Tayengco, and thereafter order the discharge of the aforementioned receiver. Costs against the private respondents.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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