

**ETERNAL GARDENS MEMORIAL PARKS CORPORATION,
PETITIONER, VS. FIRST SPECIAL CASES DIVISION INTERMEDIATE
APPELLATE COURT AND NORTH PHILIPPINE UNION MISSION OF
THE SEVENTH-DAY ADVEN...**

G.R. No. 73794. September 19, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a special civil action for certiorari, prohibition and mandamus seeking to set aside the two resolutions of public respondent First Special Cases Division of the then Intermediate Appellate Court in AC-G.R. No. 04869 entitled "North Philippine Union Mission of the Seventh Day Adventists versus Hon. Antonia Corpus-Macandog, Presiding Judge, Branch CXX, Regional Trial Court, Caloocan City and Eternal Gardens Memorial Park Corporation," (a) dated September 5, 1985 (Rollo, pp. 21-25) reconsidering its Decision[1] of February 27, 1985 (Rollo, pp. 38-48) and ordering petitioner to deposit whatever amounts due from it under the Land Development Agreement, and (b) dated February 13, 1986 (Rollo, p. 27) denying for lack of merit petitioner's motion for reconsideration.

Petitioner Eternal Gardens Memorial Parks Corporation and private respondent North Philippine Union Mission Corporation of the Seventh Day Adventists (MISSION for short) are corporations duly organized and existing under and by virtue of the laws of the Republic of the Philippines.

They executed a Land Development Agreement (Rollo, pp. 179-182) on October 6, 1976 whereby the former undertook to introduce and construct at its own expense and responsibility necessary improvements on the property owned by private respondent into a memorial park to be subdivided into and sold as memorial plot lots, at a stipulated area and price per lot. Out of the proceeds from the sale, private respondent is entitled to receive 40% of the net gross collection from the project to be remitted monthly by petitioner to private respondent through a designated depository trustee bank. On the same date private respondent executed in petitioner's favor a Deed of Absolute Sale with Mortgage (Rollo, pp. 183-186) on the lots with titles involved in the land development project. The deed was supplemented by a Sale of Real Property with Mortgage and Special Conditions dated October 28, 1978 (Rollo, pp. 189-394). The amounts totalling about P984,110.82 paid by petitioner were to be considered as part of the 40% due private respondent under the Land Development Agreement. All went well until Maysilo Estate asserted its claim of ownership over the parcel of land in question. Confronted with such conflicting claims, petitioner as plaintiff filed a complaint for interpleader (Rollo, pp. 169-179) against private respondent MISSION and Maysilo Estate, docketed as Special Court Case No. C-9556 of the then CFI of Rizal, Branch XII, Caloocan, alleging among others, that in view of the conflicting claims of ownership of the defendants (herein private respondent and Maysilo Estate) over the properties subject matter of the contracts, over which plaintiff corporation (herein petitioner) has no claim of ownership except as a purchaser thereof, and to protect the interests of plaintiff corporation which has no interest in the subject matter of the dispute and is willing to pay whoever is entitled or declared to be the owners of said properties, the defendants

should be required to interplead and litigate their several claims between themselves (Rollo, p. 177).

An order was issued by the presiding judge[2] requiring defendants to interplead on October 22, 1981. MISSION filed a motion to dismiss dated November 10, 1981 for lack of cause of action but also presented an answer dated November 12, 1981. The motion to dismiss was denied in an Order dated January 12, 1982. The heirs of Maysilo Estate filed their own answer dated November 11, 1981 and an amended answer dated October 20, 1983 thru the estate's special receiver. The heirs of Pedro Banon filed an "Answer in Intervention with Special and Affirmative Defenses" dated October 24, 1983, while LiliaB. Sevillaand husband Jose Seel in filed their "Answer in Cross-claim" dated October 31, 1983 (Rollo, p. 30). The heirs of Sofia O'Farrel y Patino, et al. filed their Answer in Intervention dated November 10, 1983.

However, earlier on November 21, 1982, private respondent presented a motion for the placing on judicial deposit the amounts due and unpaid from petitioner. Acting on such motion, the trial court[3] denied judicial deposit in its order dated February 13, 1984, the decretal portion of which reads:

"PREMISES CONSIDERED, all or the full amount the plaintiff, Eternal Gardens Memorial Parks Corporation have already paid the North Philippine Union Mission Corporation of the Seventh Day Adventist is hereby ordered to deposit the same to this Court within thirty (30) days from receipt of this order considering that real or true owner of the subject properties in question, due hearing of this court has yet to be undergone in order to decide as to who is the true owner which is a prejudicial question. Hence the motion dated November 21, 1983 of the NPUM for the Eternal Gardens Corporation to deposit the balance due and unpaid is hereby ordered denied and the opposition thereto dated December 19, 1983 is hereby ordered granted.

"The contract between the Eternal Gardens Corporation and the North Philippine Union Mission dated October 16, 1976 is ordered and declared ineffective as of today, February 13, 1984 because the subject matter of the sale is not existing between the contracting parties until after the question of ownership is resolved by this court. The court will order the revival of the contract if the North Philippine Union Mission will win.

"If not, the declared winner among the intervenors will be the party to enter into a contract of sale with the plaintiff as aforementioned." (Rollo, p. 66).

Another order dated October 26, 1984 was issued amending the February 13, 1984 order and setting aside the order for private respondent's deposit of the amounts it had previously received from petitioner, thus:

"WHEREFORE IN VIEW OF ALL THE FOREGOING CONSIDERATIONS the order of February 13, 1984, is hereby ordered amended, reconsidered and modified by this same Court as follows:

"(a) The order directing the NORTH PHILIPPINE UNION MISSION CORPORATION OF SEVENTH-DAY ADVENTISTS to deposit the amounts it received under the implementation of the LAND DEVELOPMENT AGREEMENT which is not questioned by the plaintiff, Eternal Gardens, is hereby ordered set aside for the reason that the titles to ownership, the North Philippine Union Mission Corporation of Seventh Day Adventists on the lots subject-matter of the aforesaid agreement is not established invalid, and the alleged titles of intervenors are not proven yet by competent evidence;

"(b) The motion to require Eternal Gardens to deposit the balance under the Land Development Agreement is likewise hereby ordered denied considering the fact the aforesaid plaintiff had not denied its obligations under the aforesaid contract; and

"(c) The trial or hearing is hereby ordered as scheduled to proceed on November 29, 1984 and on December 6, 1984 at 8:30 in the morning per order of this Court dated October 4, 1984 in order to determine the alleged claims of ownership by the intervenors and all claims and allegations of each party to the instant case will be considered and decided carefully by this court on just and meritorious grounds.'1 (Rollo, p. 39)

Said Orders were assailed twice in the Intermediate Appellate Court (Court of Appeals) and in the Supreme Court as follows:

In G.R. No. 73569 it appeared that on January 11, 1985, MISSION filed a motion to dismiss the Interpleader and the claims of the Maysilo Estate and the Intervenor and to order the Eternal Gardens to comply with its Land Management with MISSION.

On January 28, 1985, the trial court passed a resolution, the dispositive portion of which reads:

"WHEREFORE, premises considered, this Court, after a lengthy, careful judicious study and perusal of all the stand of each and everyone of all the parties participating in this case, hereby orders the dismissal of the interpleader, and the interventions filed by the intervenors, heirs of Pedro Banon, heirs of O'Farrel, heirs of Rivera, heirs of Maria del Concepcion Vidal, consolidated with the Maysilo Estate as represented by receiver Arturo Salientes, the heirs of Vicente Singson Encarnacion, and Lilia Sevilla Seeling.

"This Court likewise orders the plaintiff, Eternal Gardens Memorial Parks Corporation to comply with the Land Development Agreement dated October 6, 1978, it entered into with the North Philippine Union Mission Corporation of the Seventh-Day Adventists." (Rollo. p. 68).

The heirs of the Maysilo Estate moved for reconsideration of the aforementioned order of dismissal, the hearing of which was requested to be set on February, 28, 1985. However, the trial judge, on February 14, 1985 issued the following orders:

"Considering Motions for Reconsideration filed, the Court resolves that the same be GRANTED and instead of a hearing of the said motions on February 20, 1985, at 8:30 a.m., a hearing on the merits shall be held." (Rollo, p. 68)

In spite of the February 14, 1985 order, MISSION filed on March 6, 1985 a motion for Writ of Execution of the resolution of January 28, 1985. This was denied on June 25, 1985. The said court further set the case for pre-trial and trial on July 18, 1985.

It was elevated on certiorari and mandamus to the Intermediate Appellate Court (Court of Appeals), docketed as AC-G.R. Sp. No. 06696 "North Philippine Union Mission of the Seventh Day Adventists, vs. Hon. Antonia Corpus-Macandog, Presiding Judge, Branch CXX, Regional Trial Court, Caloocan City, Eternal Gardens Memorial Parks Corporation, and Heirs of Vicente Singson Encarnacion." It was raffled to the Second Special Division. MISSION assailed the February 14, 1985 and June 25, 1985 orders as violative of due process and attended by grave abuse of discretion amounting to lack of jurisdiction.

The petition was however dismissed in the decision of said Appellate Court, promulgated on December 4, 1985, the dispositive portion of which reads:

"WHEREFORE, for want of merit the petition for certiorari and mandamus under consideration cannot be given due course and is accordingly, DISMISSED, without any pronouncement, as to costs. The restraining order embodied in Our Resolution of July 31, 1985, is hereby lifted." (Rollo, G.R. No. 73569, p. 232).

The private respondent challenged the above decision in the Supreme Court in G.R. No. 73569. In its resolution dated June 11, 1986, the Supreme Court denied the petition for review on certiorari for lack of merit, as follows:

"G.R. No. 73569 (North Philippine Union Mission Corporation of the Seventh Day Adventists vs. Intermediate Appellate Court, et al.) considering the allegations, issues, and arguments adduced in the petition for review on certiorari, the Court Resolved to DENY the same for lack of merit." (Ibid., p. 263)

Said resolution has become final and executory on July 16, 1986. (Ibid, p. 269)

Earlier in 1983, the heirs of the late spouses Vicente Singson Encarnacion and Lucila Conde filed Civil Case No. C-1 1 836 for quieting of title with Branch CXXII, Regional Trial Court, Caloocan City, where petitioner and private respondent were named as defendants.

Said case is still pending in the lower Court.

In the case at bar, G.R. No. 73794, MISSION, herein private respondent filed a petition for certiorari with the then Intermediate Appellate Court docketed as AC-G.R. No. 04869 praying that the aforementioned Orders of February 13, 1984 and October 26, 1984 of the Regional Trial Court be set aside and that an order be issued to deposit in court or in a depositor/ trustee bank of any and all payments, plus interest thereon, due the private respondent MISSION under the Land Development Agreement, said amounts deposited to be paid to whomever may be found later to be entitled thereto, with costs. (Rollo, G.R. No. 73794, p. 38)

The Intermediate Appellate Court, acting through its First Special Cases Division,[4] dismissed the petition in its decision on February 27, 1985 (Rollo, pp. 38-48). In its Resolution[5] promulgated on September 5, 1985, the Court however, reversed its decision, thus:

"WHEREFORE, the Court reconsiders its decision of February 27, 1985, and sets aside the questioned portions of the respondent Court's orders of February 13 and October 26, 1984. The private respondent is hereby ordered to deposit whatever amounts are due from it under the Land Development Agreement of October 6, 1976 with a reputable bank to be designated by the respondent court to be the depository trustee of the said amounts to be paid to whoever shall be found entitled thereto. No costs." (Rollo, p. 25)

Eternal Gardens moved for a reconsideration of the above decision but it was denied for lack of merit in a resolution promulgated on February 13, 1986, which states:

"The private respondent Eternal Gardens Memorial Park Corporation's Motion for Reconsideration of the Court's resolution promulgated September 5, 1985 requiring it 'to deposit whatever amounts are due from it under the Land Development Agreement of October 6, 1976 x x x,' which was strongly opposed by the petitioner North Philippine Union Mission of the Seventh Day Adventists, is hereby denied for lack of merit, reiterating as it does, the very same issues and arguments that were passed upon and considered by the Court in the very same resolution sought to be reconsidered.'" (Rollo, p-27)

Hence, this petition.

On July 8, 1987, the Third Division of this Court issued the following resolution:

"x x x the court RESOLVED to give due course to this petition and require the parties to file memoranda.

"In the meantime, to avoid possible wastage of funds, the Court RESOLVED to require the private respondent[6] to DEPOSIT its accruing installments within ten (10) days from notice with a reputable commercial bank in a savings deposit account, in the name of the Supreme Court of the Philippines, with the details to be reported or manifested to this Court within ten (10) days from the time the deposit/ deposits are made, such deposits not to be withdrawn without authority from this Court." (Rollo, p. 162).

Petitioner's-Memorandum With Prayer for the Deferment of Time to Make Deposit (Rollo, p. 21 8-236) was filed on July 14, 1987. Its prayer was granted for a period often (10) days for the purpose, in the resolution of July 29, 1987 (Rollo, p. 238). Private respondent filed its Opposition to Deferment of Time to Make Deposit (Rollo, pp. 239-253) on July 24, 1987 to which petitioner filed its Reply to Opposition on August 4, 1987 (Rollo, pp. 256-267). Both were noted by the Court in its resolution dated September 7, 1987 (Rollo, p. 270). On August 25, 1987, private respondent filed its Rejoinder to Petitioner's Reply to Opposition (Rollo, pp. 271-292).

Petitioner filed its Supplemental Memorandum with Reply to Opposition (To Deferment of Time to Make

Deposit) on

August 31, 1987 (Rollo, pp. 294-313) and a Sur-rejoinder on September 1, 1987 (Rollo, pp. 304-315).

The main issues in this case are:

I

Whether or not respondent Court of Appeals abused its discretion amounting to lack of jurisdiction in reconsidering its resolution of February 27, 1985 and in requiring instead in the resolution of September 5, 1985, that petitioner Eternal Gardens deposit whatever amounts are due from it under the Land Development Agreement with a reputable bank to be designated by the respondent court.

II

Whether or not the dismissal of AC-G.R. SP No. 06696 (North Philippine Union Mission of the Seventh Day Adventists vs. Hon. Macandog, et al.) by the Second Special Cases Division of the 1AC which was affirmed by the Supreme Court in G.R. No. 73569 constitutes a basis for the dismissal of the case at bar on the ground of res adjudicata.

III

There is no question that courts have inherent power to amend their judgments, to make them conformable to the law applicable provided that said judgments have not yet attained finality (*Villanueva v. Court of First Instance of Oriental Mindoro, Pinamalayan, Branch II*, 119 SCRA 288 [1982]). In fact, motions for reconsideration are allowed to convince the courts that their rulings are erroneous and improper (*Siy v. Court of Appeals*, 138 SCRA 543-544 [1985]; *Guerra Enterprises Co., Inc. v. CFI of Lanao del Sur*, (32 SCRA 317 [1970]) and in so doing, said courts are given sufficient opportunity to correct their errors.

In the case at bar, a careful analysis of the records will show that petitioner admitted among others in its complaint in Interpleader that it is still obligated to pay certain amounts to private respondent; that it claims no interest in such amounts due and is willing to pay whoever is declared entitled to said amounts. Such admissions in the complaint were reaffirmed in open court before the Court of Appeals as stated in the latter court's resolution dated September 5, 1985 in A.C. G.R. No. 04869 which states:

"The private respondent (MEMORIAL) then reaffirms before the Court its original position that it is a disinterested party with respect to the property now the subject of the interpleader case x x x.

"In the light of the willingness, expressly made before the court, affirming the complaint filed below, that the private respondent (MEMORIAL) will pay whatever is due on the Land Development Agreement to the rightful owner/owners, there is no reason why the amount due on subject agreement has not been placed in the custody of the Court." (Rollo, p. 227).

Under the circumstances, there appears to be no plausible reason for petitioner's objections to the deposit of the amounts in litigation after having asked for the assistance of the lower court by filing a complaint for interpleader where the deposit of aforesaid amounts is not only required by the nature of the action but is a contractual obligation of the petitioner under the Land Development Program (Rollo, p. 252).

As correctly observed by the Court of Appeals, the essence of an interpleader, aside from the disavowal of interest in the property in litigation on the part of the petitioner, is the deposit of the property or funds in controversy with the court. It is a rule founded on justice and equity: "that the plaintiff may not continue to benefit from the property or funds in litigation during the pendency of the suit at the expense of whoever will ultimately be decided as entitled thereto." (Rollo, p. 24).

The case at bar was elevated to the Court of Appeals on certiorari with prohibitory and mandatory injunction. Said appellate court found that more than twenty million pesos are involved; so that on interest alone for savings or time deposit would be considerable, now accruing in favor of the Eternal Gardens. Finding that such is violative of the very essence of the complaint for interpleader as it clearly runs against the interest of justice in this case, the Court of Appeals cannot be faulted for finding that the lower court committed a grave abuse of discretion which requires correction by the requirement that a deposit of said amounts should be made to a bank approved by the Court. (Rollo p. 25).

Petitioner would now compound the issue by its obvious turnabout, presently claiming in its memorandum that there is a novation of contract so that the amounts due under the Land Development Agreement were allegedly extinguished, and the requirement to make a deposit of said amounts in a depositary bank should be held in abeyance until after the conflicting claims of ownership now on trial before Branch CXXII RTC-Caloocan City, has finally been resolved.

All these notwithstanding, the need for the deposit in question has been established, not only in the lower courts and in the Court of Appeals but also in the Supreme Court where such deposit was required in the resolution of July 8, 1987 to avoid wastage of funds.

II

The claim that this case should be barred by res judicata is even more untenable.

The requisite of res judicata are: (1) the presence of a final former judgment; (2) the former judgment was rendered by a court having jurisdiction over the subject matter and the parties; (3) the former judgment is a judgment on the merits; and (4) there is between the first and the second action identity of parties, of subject matter, and of causes of action (*Arguson v. Miclat*, 135 SCRA 678 [1985]; *Carandang v. Venturanza*, 133 SCRA 344 [1984]).

There is no argument against the rule that parties should not be permitted to litigate the same issue more than once and when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate (*Sy Kao v. Court of Appeals*, 132 SCRA 302 [1984]).

But a careful review of the records shows that there is no judgment on the merits in G.R. No. 73569 and in the case at bar, G.R. No. 73794; both of which deal on mere incidents arising therefrom.

In G.R. No 73569, the issue raised is the propriety of the grant of the motion for reconsideration without a hearing thereon and the denial of the motion for execution, while in the case at bar, what is assailed is the propriety of the order of respondent appellant court that petitioner Eternal Gardens should deposit whatever amounts are due from it under the Land Development Agreement with a reputable bank to be designated by the Court. In fact, there is a pending trial on the merits in the trial court which the petitioner insists is a prejudicial question which should first be resolved. Moreover, while there may be identity of parties and of subject matter, the Land Development Contract, there is no identity of issues as clearly shown by the petitions filed.

PREMISES CONSIDERED, (a) the petition is DISMISSED for lack of merit; (b) this case (together with all the claims of the intervenors on the merits) is REMANDED to the lower court for further proceedings; and (c) the resolution of the Third Division of this Court of July 8, 1987 requiring the deposit by the petitioner (see footnote No. 6) of the amounts contested in a depositary bank STANDS (the Motion for Reconsideration thereof being hereby DENIED for reasons already discussed) until after the decision on the merits shall have become final and executory.

SO ORDERED.

Melencio-Herrera (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Justice, Nathaniel P. De Pano, Jr. concurred in by Justices Isidro C. Borromeo and Carolina C. Griflo-Aquino.

[2] Judge Fernando A. Cruz.

[3] Regional Trial Court, Caloocan City, Branch CXX, presided over by Judge Anlonia Corpus-Macandog.

[4] Justice de Pano, Jr. penned the Decision which was concurred in by Justices Borromeo and Grifto-Aquino.

[5] Penned by Justice Nathaniel P. de Pano, Jr. and concurred in by Justices Isidro C. Borromeo, Luis A. Javellana.

[6] Should be "petitioner." see Petitioner's Memorandum, dated July 13, 1987. Rollo p. 218.

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