

LUISA LYON NUÑAL, HEREIN REPRESENTED BY ALBERT NUÑAL, AND ANITA NUÑAL HORMIGOS, PETITIONERS, VS. THE COURT OF APPEALS AND EMMA LYON DE LEON IN HER BEHALF AND AS GUARDIAN AD LITE...

G.R. No. 94005. April 06, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is a petition for review on certiorari of the decision* dated February 22, 1990 of the Court of Appeals in CA-G.R. CV No. 14889 entitled "Emma Lyon de Leon, et al., plaintiffs-appellees versus Luisa Lyon Nuñal, now deceased herein represented by Albert Nuñal, et al., defendants?appellants," dismissing petitioners' appeal and affirming the trial court's order** dated January 9, 1987 for the inclusion of Mary Lyon Martin as one of the heirs who shall benefit from the partition.

The facts as culled from the records of the case are as follows:

This case originated from a suit docketed as Civil Case No. 872 filed by Emma Lyon de Leon in her behalf and as guardian ad litem of the minors Helen Sabarre and Kenny Sabarre, Eduardo Guzman, Mercedes Lyon Taupan, Wilfredo Guzman, Mally Lyon Encarnacion and Dona Lyon de las Peñas, (herein private respondents) against Luisa Lyon Nuñal, now deceased and herein represented by her heirs, Albert Nuñal and Anita Nuñal Hormigos (herein petitioners), for partition and accounting of a parcel of land located in Isabela, Basilan City. Subject parcel of land was formerly owned by Frank C. Lyon and May Ekstrom Lyon, deceased parents of Helen, Dona, Luisa, Mary, Frank and William James. Private respondents claimed that said parcel of land, formerly covered by Transfer Certificate of Title No. 3141 in the name of Frank C. Lyon, has been in possession of petitioner Luisa Lyon Nuñal since 1946 and that she made no accounting of the income derived therefrom, despite demands made by private respondents for the partition and delivery of their shares.

On December 17, 1974, after trial and hearing, the then Court of First Instance (now Regional Trial court) rendered its judgment in favor of private respondents and ordered the partition of the property but dismissing private respondents' complaint for accounting. The dispositive portion of the judgment reads as follows:

"WHEREFORE, judgment is hereby rendered ordering the partition of the land covered by Transfer Certificate of Title No. 3141 among the plaintiffs and defendant. The parties shall make partition among themselves by proper instruments of conveyance, subject to the Court's confirmation, should the parties be unable to agree on the partition, the court shall appoint commissioners to make the partition, commanding them to set off to such party in interest such part and proportion of the property as the Court shall direct. Defendant is further ordered to pay plaintiffs attorney's fees in the sum of P2,000.00." [1]

On July 30, 1982, the order of partition was affirmed in toto by the Court of Appeals in CA-G.R. No. 57265-R. The case was remanded to the court of origin for the ordered partition.[2]

On May 17, 1984, an order for the issuance of the writ of execution was issued by the court a quo.[3]

On July 17, 1984, Mary Lyon Martin, daughter of the late Frank C. Lyon and Mary Ekstrom Lyon, assisted by her counsel filed a motion to quash the order of execution with preliminary injunction. In her motion, she contends that not being a party to the above-entitled case her rights, interests, ownership and participation over the land should not be affected by a judgment in the said case; that the order of execution is unenforceable insofar as her share, right, ownership and participation is concerned, said share not having been brought within the jurisdiction of the court a quo. She further invokes Section 12, Rule 69 of the Rules of Court.[4]

On June 26, 1985, the trial court issued an order revoking the appointment of the three commissioners and in lieu thereof, ordered the issuance of a writ of execution.[5]

On February 4, 1986, the said court issued an order appointing a Board of Commissioners to effect the partition of the contested property.[6]

On May 28, 1986, the trial court dismissed the motion to quash order of execution with preliminary injunction filed by Mary Lyon Martin and directed the partition of the property among the original party plaintiffs and defendants.[7]

On September 24, 1986, the Commissioners manifested to the trial court that in view of the fact that the name of Mary Lyon Martin also appears in the Transfer Certificate of Title, she could therefore be construed as one of the heirs. A ruling from the trial court was then sought.[8]

On September 29, 1986, the lower court issued an order directing the counsel of Emma Lyon de Leon to furnish the court within five days from receipt thereof all the names of the heirs entitled to share in the partition of the subject property.[9]

On October 1, 1986, the petitioners filed a manifestation praying that the court issue an order directing the partition of the property in consonance with the decision dated December 17, 1974 of the trial court and the order of said court dated May 28, 1986.[10]

Without ruling on the manifestation, the lower court issued an order directing the Board of Commissioners to immediately partition the said property.[11]

On January 3, 1987, the private respondents filed a motion or clarification as to whether the partition of the property is to be confined merely among the party plaintiffs and defendants, to the exclusion of Mary Lyon Martin.[12]

On January 9, 1987, the lower court issued the assailed order directing the inclusion of Mary Lyon Martin as co-owner with a share in the partition of the property, to wit:

"After a perusal of the decision of the Court of Appeals CA-G.R. No. 57265-R, where this case was appealed by the unsatisfied parties, there is a finding that Mary now Mary Lyon Martin is one of the legitimate children of Frank C. Lyon and Mary Ekstrom. (Page 3 of the decision)

In view of this finding, it would be unfair and unjust if she would be left out in the partition of this property now undertaking (sic) by the said court appointed commissioners.

WHEREFORE, premises considered, the court appointed commissioners is hereby directed to include Mary Lyon Martin as co-owner in the said property subject of partition with the corresponding shares adjudicated to her.

SO ORDERED."[13]

Petitioners' motion for reconsideration[14] of the aforesaid order was denied by the trial court.[15]

On February 22, 1990, the Court of Appeals rendered its decision dismissing petitioners' appeal, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, there being no legal impediment to the inclusion of Mary Lyon Martin by the court-appointed Board of Commissioners as one of the heirs who shall benefit from the partition, the instant appeal is DISMISSED for lack of merit.

NO COSTS.

SO ORDERED."[16]

Petitioners' motion for reconsideration was denied on June 6, 1990.[17]

Petitioners filed this petition for review alleging that the Court of Appeals has decided questions of substance contrary to law and the applicable decisions of this Court, for the following reasons:

"1.) BY SUSTAINING THE ORDER OF THE REGIONAL TRIAL COURT DIRECTING THE COURT APPOINTED BOARD OF COMMISSIONERS TO INCLUDE MARY L. MARTIN TO SHARE IN THE PARTITION OF THE PROPERTY IN LITIGATION DESPITE THE FACT, OVER WHICH THERE IS NO DISPUTE, THAT SHE HAS NOT LITIGATED EITHER AS A PARTY PLAINTIFF OR DEFENDANT IN CIVIL CASE NO. 872, IT HAS REFUSED TO RECOGNIZE THAT THE REGIONAL TRIAL COURT HAS NO JURISDICTION TO AMEND OR MODIFY THE JUDGMENT IN CIVIL CASE NO. 872 AND THE REGIONAL TRIAL COURT'S ORDER DATED 28 MAY 1986 WHICH HAS BECOME FINAL AND EXECUTORY.

2.) WHEN THE COURT OF APPEALS HAS CATEGORICALLY STATED THAT MARY L. MARTIN "NEVER LITIGATED AS ONE OF THE PLAINTIFFS IN SAID CASE," AND HER ONLY PARTICIPATION THEREIN WAS SIMPLY CONFINED "AS A WITNESS FOR DEFENDANT-SISTER LUISA LYON NUÑAL," AND TO ALLOW HER TO SHARE IN THE PARTITION THIS LATE WITHOUT REQUIRING A PROCEEDING WHERE THE PARTIES COULD PROVE THEIR RESPECTIVE CLAIMS, IS TANTAMOUNT TO DENYING THE NUÑALS OF THEIR RIGHT TO DUE PROCESS.[18]

The crux of this case is whether or not the trial court may order the inclusion of Mary L. Martin as co-heir entitled to participate in the partition of the property considering that she was neither a party plaintiff nor a party defendant in Civil Case No. 872 for partition and accounting of the aforesaid property and that the decision rendered in said case has long become final and executory.

Petitioners contend that the trial court's decision dated December 14, 1974 in Civil Case No. 872 ordering the partition of the parcel of land covered by Transfer Certificate of Title No. 3141 among plaintiffs and defendants has long become final and executory. Hence the trial court has no jurisdiction to issue the questioned Order dated January 9, 1987 ordering the Board of Commissioners to include Mary Lyon Martin to share in the partition of said property despite the fact that she was not a party to the said case. Said Order, therefore, resulted in an amendment or modification of its decision rendered in Civil Case No. 872.

We find merit in the instant petition.

In the case of *Manning International Corporation v. NLRC*,[19] We held that "x x x, nothing is more settled in the law than that when a final judgment becomes executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the Court rendering it or by the highest Court of land. The only recognized exceptions are the correction of

clerical errors or the making of so-called nunc pro tunc entries which cause no prejudice to any party, and, of course, where the judgment is void."

Furthermore, "(a)ny amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose." [20]

In the case at bar, the decision of the trial court in Civil Case No. 872 has become final and executory. Thus, upon its finality, the trial judge lost his jurisdiction over the case. Consequently, any modification that he would make, as in this case, the inclusion of Mary Lyon Martin would be in excess of his authority.

The remedy of Mary Lyon Martin is to file an independent suit against the parties in Civil Case No. 872 and all other heirs for her share in the subject property, in order that all the parties in interest can prove their respective claims.

WHEREFORE, the petition is GRANTED. The Order dated January 9, 1987 of the trial Court as affirmed by the Court of Appeals is hereby REVERSED and SET ASIDE. The decision of the trial court dated December 17, 1974 in Civil Case No. 872 is hereby REINSTATED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

* Penned by Associate Justice Ricardo J. Francisco and concurred in by Associate Justices Minerva Gonzaga-Reyes and Salome A. Montoya.

** Penned by Judge Salvador A. Memoracion, Regional Trial Court, 9th Judicial Region, Branch I, Isabela, Basilan.

[1] Rollo, p. 44; Record on Appeal, pp. 2-3.

[2] Ibid., p. 8.

[3] Ibid., p. 9.

[4] Ibid., pp. 10-11.

[5] Ibid., pp. 12-13.

[6] Ibid., pp. 13-14.

[7] Ibid., pp. 14-16.

[8] Ibid., pp. 19-20.

[9] Ibid., p. 21.

[10] Ibid., pp. 21-23

[11] Ibid., p. 23.

[12] Ibid., pp. 24-26.

[13] Ibid., pp. 26-27.

[14] Ibid., pp. 27-33.

[15] Ibid., pp. 35-37.

[16] Rollo, p. 21; Decision, p. 6.

[17] Rollo, p. 23; Resolution.

[18] Rollo, pp. 4-5; Petition, pp. 2-3.

[19] 195 SCRA 155, 161 (1991).

[20] Francisco vs. Bautista, 192 SCRA 388, 392 (1990), citing Marcopper Mining Corp. vs. Liwanag Paras Brios, et al., 165 SCRA 464 (1988).

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