

FIRST DIVISION

[G.R. NO. 157745, September 26, 2006]

**GENALYN D. YOUNG, PETITIONER, VS. SPOUSES MANUEL SY
AND VICTORIA SY, RESPONDENTS.**

GENALYN D. YOUNG, PETITIONER,

**G.R. NO. 157955 (CA-G.R. SP NO. 65629) VS. SPOUSES MANUEL
SY AND VICTORIA SY, RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

The Cases

Before this Court are two Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court. Since the two cases are interdependent and originate from the same proceeding, and for the sake of expediency, they have been consolidated by this Court.

The Petition under G.R. No. 157955 (Re: Supplemental Complaint) challenges the Decision dated November 18, 2002^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 65629 affirming the Orders dated December 28, 2000 and April 6, 2001 of the Regional Trial Court, San Pablo City, Branch 32, in Civil Case No. SP-5703 (2000) (RTC) which denied the admission of petitioner's Supplemental Complaint; and the CA Resolution dated April 2, 2003^[2] which denied the petitioner's Motion for Reconsideration.

The Petition under G.R. No. 157745 (Re: Non-Suit) questions the Decision dated November 29, 2002^[3] of the CA in CA-G.R. SP No. 70610 which affirmed the Orders of the RTC dated August 30, 2001, January 4, 2002 and January 16, 2002 (RTC Orders), all of which in effect dismissed the Complaint for non-suit; and the CA Resolution dated March 21, 2003^[4] which denied the petitioner's Motion for Reconsideration.

Both petitions originated from a Complaint for Nullification of Second Supplemental Extra-judicial Settlement, Mortgage, Foreclosure Sale and Tax Declaration filed by the petitioner on May 2, 2000 with the RTC. Genalyn D. Young (petitioner), in her Complaint, alleged that the extra-judicial partition executed by her natural mother, Lilia Dy Young which adjudicated an unregistered parcel of land solely in favor of the latter, is unenforceable, since at the time of the execution, she (petitioner) was only 15 years old and no court approval had been procured; that the partition had been registered with the Register of Deeds; that Lilia Dy obtained a loan from spouses Manuel Sy and Victoria Sy (respondents) and mortgaged the subject property; that the property was foreclosed and sold to the highest bidder, respondent Manuel Sy;

that a Certificate of Sale for this purpose had been registered with the Register of Deeds; and that, thereafter, respondents obtained in their name a tax declaration over the property in question.

The Antecedents

G.R. No. 157955 (Re: Supplemental Complaint)

On July 20, 2000, the petitioner filed with the RTC a Motion to Admit Supplemental Complaint, attaching the Supplemental Complaint wherein petitioner invoked her right, as co-owner, to exercise the legal redemption. The RTC denied the Motion in an Order dated December 28, 2000. Petitioner, on July 16, 2001, filed a Petition for *Certiorari* and *Mandamus* under Rule 65 of the Rules of Court, docketed as CA- G.R. SP No. 65629, and raised the following grounds:

THE HONORABLE RESPONDENT COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN ISSUING THE ORDERS DATED 28 DECEMBER 2000 AND 06 APRIL 2001 SINCE:

A.

THE RELIEFS IN THE SUPPLEMENTAL COMPLAINT MERELY DEVELOP OR EXTEND THE ORIGINAL CAUSES OF ACTION. PLAINTIFF'S CAUSE OF ACTION FOR LEGAL REDEMPTION ARISES DIRECTLY FROM AND IS A NATURAL EXTENSION OR CONSEQUENCE OF HER RIGHTS AS CO-OWNER OF THE PROPERTY SUBJECT OF THE CASE.

B.

THE SUPERVENING EVENT WHICH IS THE CONSOLIDATION OF TITLE TO THE SUBJECT PROPERTY IN THE NAME OF MANUEL SY, OCCURRED AFTER 21 JUNE 2000; SUCH DATE IS PLAINLY SUBSEQUENT TO THE FILING OF THE COMPLAINT ON 02 MAY 2000.^[5]

On November 18, 2002, the CA promulgated its Decision denying the Petition for *Certiorari* and *Mandamus* and held that the cause of action of the petitioner in the Supplemental Complaint is entirely different from the original complaint; that the Supplemental Complaint did not merely supply its deficiencies; and that, at any rate, in the event the trial court issues an adverse ruling, the petitioner can still appeal the same, hence, the petition under Rule 65 is not proper.

Hence, the present Petition for Review on *Certiorari* under Rule 45, raising the following issues:

A.

WHETHER OR NOT THE RTC ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LOSS OF JURISDICTION IN ISSUING THE ORDERS DATED 28 DECEMBER 2000 AND 06 APRIL 2001.

1.

WHETHER OR NOT THE RELIEFS IN THE SUPPLEMENTAL COMPLAINT MERELY DEVELOP OR EXTEND THE ORIGINAL CAUSES OF ACTION.

2.

WHETHER OR NOT THE SUPERVENING EVENT WHICH IS THE CONSOLIDATION OF TITLE TO THE SUBJECT PROPERTY IN THE NAME OF MANUEL SY, OCCURRED AFTER 21 JUNE 2000 OR SUBSEQUENT TO THE FILING OF THE COMPLAINT ON 02 MAY 2000.

B.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY THE RTC AND THAT THERE WAS NO NEED TO FILE A "PETITION" TO EXERCISE THE RIGHT OF LEGAL REDEMPTION.

C.

WHETHER OR NOT THE INSTANT PETITION IS MOOT AND ACADEMIC.

D.

WHETHER OR NOT PETITIONER COMMITTED FORUM-SHOPPING. ^[6]

G.R. No. 157745 (Re: Non-Suit)

I. Appeal to the CA

While the Petition for *Certiorari* and *Mandamus* (re: Supplemental Complaint) was pending in the CA, trial in the RTC continued. On August 29, 2001, a day before the hearing slated for August 30, 2001, the petitioner filed a Motion to Cancel Hearing, alleging that she was indisposed. On the day of the hearing, respondents, through counsel, objected to the postponement and moved for the dismissal of the case for non-suit. The RTC sustained the objection and issued the assailed August 30, 2001 Order dismissing the Complaint. This Order reads in full:

ORDER

Atty. Raul S. Sison and his client arrived on time. When the case was called for hearing, the Court found attached to the records a last minute Motion to Cancel Hearing from Atty. Perpetuo M. Lotilla, Jr. The Court invited the attention of Atty. Sison on the said motion. Atty. Sison vehemently objected to the postponement on the following grounds:

- 1) the motion is in violation of the three-day notice rule;
- 2) the ground stated in the motion is too shallow to be appreciated because it merely states that a witness is indisposed without stating the indisposition and there is no Medical Certificate attached to the motion;

3) the instant motion for postponement is one of the several postponements filed by Atty. Lotilla and this is confirmed by the records of this case showing that last minute postponements and other postponements were filed by Atty. Lotilla;

4) that damages are being suffered by defendants in paying the legal services of their counsel and that defendants are unduly deprived of the possession and enjoyment of the subject property.

The Court is constrained to sustain the objection to the Motion for Postponement by Atty. Sison. The Court has also been quite liberal with the Motions for Postponement filed by Atty. Lotilla by granting the same. The Court holds that somehow the practice of filing several postponements must be discouraged.

Atty. Sison therefore moved for the dismissal of the case for non-suit. The Court finds merit on the Motion to Dismiss.

WHEREFORE, the Motion to Dismiss is granted and this case is ordered DISMISSED without costs.

SO ORDERED.^[7]

On January 4, 2002, the RTC denied the petitioner's Motion for Reconsideration. The dispositive portion of this Order states:

WHEREFORE, the Motion for Reconsideration is DENIED. The resolution on the pending incident of execution *pendente lite* is now considered moot and academic.^[8]

On January 16, 2002, the RTC issued an Order correcting the January 4, 2002 Order due to a typographical error. This Order reads in full:

ORDER

Finding merit on the Motion, the same is granted. The Court is sure that only typographical error was committed.

The dispositive portion of the Order should therefore read as follows:

"WHEREFORE, the Motion for Reconsideration is DENIED. The resolution on the pending incident of Motion for Writ of Possession, *pendente lite*, is now considered moot and academic.

SO ORDERED.^[9]

On January 31, 2002, the petitioner filed a Notice of Appeal questioning the foregoing RTC Orders. The case was eventually docketed as C.A.-G.R. CV No. 74045. In said appeal, the petitioner assigned the following errors:

A

THE TRIAL COURT GRAVELY ERRED IN ISSUING THE ORDERS DATED 30 AUGUST 2001, 04 JANUARY 2002 AND 16 JANUARY 2002, SINCE THERE WAS NO FACTUAL OR LEGAL BASIS TO DISMISS THE COMPLAINT FOR NON-SUIT.

B.

THE TRIAL COURT GRAVELY ERRED IN NOT HOLDING THAT PLAINTIFF-APPELLANT HAD A JUST AND VALID GROUND TO MOVE FOR THE CANCELLATION OF THE HEARING SET ON 30 AUGUST 2001.^[10]

The CA rendered a Decision dated March 30, 2005^[11] in favor of the petitioner, reversing and setting aside the RTC Orders, the dispositive portion of this Decision reads:

WHEREFORE, premises considered, the Orders, dated August 30, 2001, January 4, 2002 and January 16, 2002, issued by Branch 32 of the Regional Trial Court of San Pablo City are hereby REVERSED and SET ASIDE. The record/case is hereby remanded to the court of origin for further proceedings.

SO ORDERED.^[12]

The respondents filed their Motion for Reconsideration, and based on the records before the Court, this case is still pending in the CA.

II. Petition for *Certiorari* filed with the CA

On top of the foregoing appeal, the petitioner, four months after filing her Notice of Appeal to the CA, or on May 28, 2002, filed with the CA a Petition for *Certiorari* under Rule 65, docketed as CA-G.R. SP No. 70610 to annul the same RTC Orders that comprise the subject matter of the ordinary appeal. Predictably, the petitioner raised essentially the same issues:

THE HONORABLE RESPONDENT COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LOSS OF JURISDICTION IN ISSUING THE ORDERS DATED AUGUST 30, 2001, JANUARY 4, 2002, AND JANUARY 16, 2002, SINCE:

A.

THERE WAS NO FACTUAL OR LEGAL BASIS FOR DISMISSAL OF THE COMPLAINT ON THE GROUNDS OF NON-SUIT;

B.

PETITIONER HAD A JUST AND VALID GROUND TO MOVE FOR THE CANCELLATION OF THE HEARING SET ON AUGUST 30, 2001.^[13]