

FIRST DIVISION

[G.R. No. 210446, April 18, 2018]

**ANGELICA G. CRUZ, ANNA MARIE KUDO, ALBERT G. CRUZ AND
ARTURO G. CRUZ, PETITIONERS, VS. MARYLOU TOLENTINO AND
THE OFFICE OF THE REGISTER OF DEEDS OF MANDALUYONG
CITY, RESPONDENTS.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:**

This is a petition for review on *certiorari*^[1] of the Decision^[2] dated December 17, 2013 of the Court of Appeals in CA-G.R. CV No. 100370, which affirmed the Decision^[3] dated December 27, 2012 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 213 in Civil Case No. MC00-1300. The trial court dismissed the case on the ground of *litis pendentia*.

The Facts

Alfredo S. Cruz (Alfredo) is the registered owner of two parcels of land located in Barrio Baranca, then Municipality of Mandaluyong, Rizal. The first lot consisted of 77 square meters (sq. m.), more or less, and was covered by **Transfer Certificate of Title (TCT) No. 461194**^[4] of the Register of Deeds of the Province of Rizal. The second lot consisted of 516 sq. m., more or less, and was covered by **TCT No. 461195**^[5] of the Register of Deeds of the Province of Rizal. On July 10, 1985, Alfredo executed a special power of attorney^[6] (SPA) in favor of his wife, Purificacion G. Cruz (Purificacion), authorizing her to sell, transfer, convey, and/or mortgage the aforementioned properties. Thereafter, on November 14, 1985, Alfredo passed away.^[7]

According to the records of the case, the aforesaid properties figured in two transactions involving herein private respondent Marylou Tolentino (Tolentino). The first transaction was contained in a **Deed of Absolute Sale**^[8] dated **July 9, 1992** purportedly executed and signed by Alfredo and Tolentino. In this instrument, the two properties were sold to Tolentino for P1,350,000.00. The instrument was not notarized. The second transaction, on the other hand, was embodied in a **Deed of Absolute Sale**^[9] dated **December 1, 1992** ostensibly executed between Alfredo - as represented by Purificacion - and Tolentino. Here, the two properties were sold to Tolentino for P1,400,000.00. The latter instrument was notarized and it specifically mentioned the SPA in favor of Purificacion.

On December 2, 1992, TCT Nos. 461194 and 461195 were cancelled and TCT Nos. 6724 and 6725 were issued in Tolentino's name.^[10]

On **October 16, 2000**, herein petitioners Angelica G. Cruz, Auralita C. Matsuura, ^[11] Anna Marie Kudo, Albert G. Cruz, and Arturo G. Cruz (petitioners) filed a **complaint**^[12] for Annulment of Sale & Title, Damages & Injunction. Docketed as **Civil Case No. MC00-1300** in the RTC of Mandaluyong City, Branch 214 (RTC-Br. 214), the case was filed against Tolentino, Purificacion, and the Register of Deeds of Mandaluyong City.

Petitioners alleged, among others, that they are the children of Alfredo and Purificacion. Upon their discovery of the Deed of Absolute Sale dated December 1, 2002, they orally demanded the cancellation thereof and the reinstatement of TCT No. 461194. The demands, however, went unheeded. Petitioner Angelica Cruz (Angelica) then caused the annotation of an affidavit of adverse claim^[13] in Tolentino's title. Petitioners prayed that the Deed of Absolute Sale dated December 1, 1992 be annulled as the SPA of Alfredo was rendered ineffectual by his death. They claimed that the sale was also fraudulent as petitioners were denied of their rights to the subject property. They further sought the cancellation of TCT No. 6724 and the payment of moral damages, attorney's fees, and costs of suit.

Respondent Tolentino initially filed a motion to dismiss,^[14] alleging that no earnest efforts toward a compromise had been made prior to the filing of the complaint and petitioners were not the real parties in interest as they already sold the subject property to Elsa Moya, as evidenced by an Extrajudicial Settlement of the Estate with Absolute Sale.^[15]

Thereafter, Civil Case No. MC00-1300 was re-raffled to the RTC-Br. 210.^[16]

Purificacion filed her **Answer with Compulsory Counterclaim**,^[17] alleging that in 1992 when the subject property was about to be foreclosed by Paquito Lazaro (Lazaro), she was introduced to Reynaldo Tolentino (Reynaldo). In July 1992, Lazaro and Reynaldo talked to each other and the latter got hold of the title to the subject property at the Land Bank of the Philippines on Shaw Boulevard. Reynaldo then asked Purificacion to sign a document. Lazaro informed Purificacion that her debt had been transferred to Reynaldo, who took the title of the subject property as collateral. Purificacion later found out that Reynaldo is Tolentino's father. Reynaldo, Lazaro, and Tolentino allegedly knew that Alfredo was already dead.

Purificacion added that she did not voluntarily sign the Deed of Absolute Sale dated December 1, 1992. The same was allegedly void as the property belonged to Alfredo and she had no right to dispose of it. She prayed that the Deed of Absolute Sale be declared void and Tolentino be ordered to pay her moral and exemplary damages and attorney's fees.

Atty. Federico M. Cas, the Registrar of Deeds of Mandaluyong City, filed an **Answer**^[18] to the complaint. He averred that he only assumed office in October 1996. He admitted the existence of TCT No. 461194 and the cancellation thereof by his predecessor, Cesar S. Gutierrez. In lieu of said title, TCT No. 6724 was issued in Tolentino's name. He stated that petitioner Angelica caused the annotation of an Affidavit of Adverse Claim on TCT No. 6724 and he signed the annotation under Entry No. 69306.

In an Order^[19] dated June 19, 2001, the trial court denied Tolentino's motion to dismiss, ruling that the lack of earnest efforts to reach a compromise was not a prerequisite to the filing of the complaint since Tolentino was not a member of petitioners' family. Petitioners also had an interest in the subject property as they stood to be benefitted or injured by the judgment in the suit. Tolentino filed a motion for reconsideration^[20] of this denial, but the same was also denied.^[21]

Tolentino then filed her **Answer**^[22] where she specifically denied the averments in the complaint relating to the SPA and the death of Alfredo. She claimed that the truth of the matter relative to the subject property is narrated in the complaint^[23] she filed on **August 26, 1999** for Registration of Deed of Sale Covered by TCT Nos. 461194 and 461195, Mandamus and Damages. This case was docketed as **Civil Case No. MC 99-843** in the RTC-Br. 209.^[24] Tolentino's causes of action were: (a) to validate the Deed of Absolute Sale in so far as the 50% and one share of Purificacion over the property covered by TCT Nos. 461194 and 461195; and (b) to charge and/or collect from Purificacion the amount representing the value of the property also covered by TCT Nos. 461194 and 461195 belonging to the heirs of Alfredo including the 5% monthly interest thereon until the amount is paid and/or collected.^[25] In the aforesaid case, Tolentino also caused the annotation of a Notice of *Lis Pendens*^[26] in TCT Nos. 6724 and 461195.

Tolentino pointed out that the Deed of Absolute Sale subject matter of the aforesaid case is the same Deed of Absolute Sale involved in the present case. Moreover, the parties are the same, *i.e.*, Tolentino is the plaintiff in Civil Case No. MC 99-843, while Purificacion is the defendant in Civil Case No. MC 99-843. Petitioners, who are the plaintiffs in the present case, are the heirs of Alfredo. Tolentino argued that the complaint in Civil Case No. MC00-1300 was dismissible on the grounds of *res judicata*, forum shopping, and lack of jurisdiction. She added that the sale of a property by a surviving spouse cannot be voided insofar as his/her share is concerned. Also, the share of the heirs is liable to pay for the loan of the deceased especially if the proceeds of the loan inured to their benefit.

In petitioners' Reply,^[27] they alleged that Tolentino knew about the SPA in favor of Purificacion and the death of Alfredo. They also argued that Civil Case No. MC 99-843 was barred by Civil Case No. SCA No. 247, which was filed by Sonia Uykimpang against Purificacion and Tolentino for the recovery of the property covered by TCT No. 461195. In a decision dated June 20, 1994 in said case, the RTC of Pasig ordered the cancellation of Tolentino's TCT No. 6725 and the reinstatement of TCT No. 461195. The decision became final and executory when the Court of Appeals affirmed the same and Tolentino no longer filed a petition before the Supreme Court to assail the ruling.^[28] Furthermore, as petitioners were not parties to Civil Case No. MC 99-843, said case cannot affect Civil Case No. MC00-1300.

On April 3, 2002, petitioners filed a motion for consolidation^[29] of Civil Case No. MC00-1300 with Civil Case No. MC 99-843 that was pending before the RTC-Br. 209. Petitioners alleged that the two cases involved the same question of fact and of law, the same subject matter - at least insofar as the property covered by TCT No. 461194 was concerned - and the parties were more or less the same.

In an Order^[30] dated April 12, 2002, the judge in the RTC-Br. 210 granted the

request for consolidation provided that the judge in Civil Case No. MC 99-843 in the RTC-Br. 209 had no objection thereto. However, the judge in the RTC-Br. 209 rejected the consolidation. In an Order^[31] dated July 28, 2003, the RTC-Br. 209 ordered the return of the records of Civil Case No. MC00-1300 to the RTC-Br. 210 as petitioners' motion for intervention in Civil Case No. MC 99-843 was denied.

On December 2, 2003, petitioners again filed a motion for consolidation^[32] as Civil Case No. MC 99-843 in the RTC-Br. 209 had been raffled to the RTC-Br. 210. The motion was denied in an Order^[33] dated February 20, 2004.

Shortly thereafter, Civil Case No. MC00-1300 was re-raffled to the RTC-Br. 213.

In the trial of the case, Angelica testified for the petitioners. She admitted that Purificacion is her mother and the latter was made a defendant because she mortgaged the properties that petitioners inherited from their father.^[34] Angelica testified, among others, that they talked to Purificacion when they discovered the sale of the subject property to Tolentino. Purificacion said that she sold the property through Alfredo's SPA in order to cover for the expenses and debts that she incurred.^[35]

Angelica also presented in court a Deed of Absolute Sale dated July 9, 1992,^[36] which she claimed was only a mortgage document. Petitioners first came to know about the deed in 1999 after they learned of the case filed by Sonia Uykimpang against Purificacion. The latter told them that Tolentino gave her P11,350,000.00 and the two properties registered in Alfredo's name were the collateral for the amount. Angelica said that she did not recognize the signature that appeared on the typewritten name of Alfredo in the deed.^[37]

After said confrontation, Purificacion showed to petitioners a copy of Tolentino's complaint in Civil Case No. MC 99-843. Angelica first got a copy of Tolentino's complaint in 1999 when petitioners filed an adverse claim with the Register of Deeds as they wanted to know what the real agreement was between Purificacion and Tolentino regarding the subject property. Purificacion never discussed the mortgage with the petitioners.^[38]

On cross-examination, Angelica testified that the subject property was already sold to Elsa Moya. At first, she denied that she knew anything about this sale, but when she was shown the document entitled Extrajudicial Settlement of Estate with Sale, she stated that she remembered the same and she admitted her signature therein.^[39] She stated that the loan contracted by Purificacion from Tolentino was not yet paid.^[40]

Prior to the rendition of the judgment in Civil Case No. MC00-1300, Purificacion died on January 2, 2011.^[41]

The Decision of the RTC

In a **Decision dated December 27, 2012**, the RTC-Br. 213 dismissed Civil Case No. MC00-1300 as the case was related to Civil Case No. MC 99-843 since they referred to the same parties, the same evidence presented, and the same subject

matter, *i.e.*, TCT No. 461194, now TCT No. 6724.

According to the trial court, it had already issued a **Decision dated December 7, 2012** in Civil Case No. MC 99-843, finding that the Deed of Absolute Sale dated December 1, 1992 and the SPA executed by Alfredo in favor of Purificacion were valid and effective. In view of the aforesaid decision, the trial court ruled that Civil Case No. MC00-1300 was already dismissible on the ground of *res judicata* or, at best, *litis pendentia*.

The RTC added that in petitioners' motion for consolidation filed on April 3, 2002, they admitted that the questions of fact and law in both cases involved TCT No. 461194. Also, in Civil Case No. MC 99-843, petitioners offered in evidence the SPA in favor of Purificacion, TCT No. 461194, TCT No. 6724, and the Deed of Absolute Sale dated December 1, 1992.

The Decision of the Court of Appeals

Petitioners appealed^[42] the judgment of the RTC, but the appeal was denied in the assailed Court of Appeals Decision dated December 17, 2013. The appellate court found that *res judicata* was not applicable to the case as the trial court decision in Civil Case No. MC 99-843 did not state that the same was already final and executory. The appellate court ruled, however, that the elements of *litis pendentia* were extant in the case.

As to the identity of parties, the Court of Appeals similarly observed that Tolentino - a defendant in Civil Case No. MC00-1300 - is the plaintiff in Civil Case No. MC 99-843, while Purificacion - a defendant in Civil Case No. MC00-1300 - is also a defendant in Civil Case No. MC 99-843. That petitioners were not parties in Civil Case No. MC 99-843 was found to be immaterial as mere substantial identity of parties was sufficient.

As to the subject matter, the Court of Appeals found that notwithstanding the difference in the issues and reliefs prayed for in Civil Case Nos. MC00-1300 and MC 99-843, both actions pertain to the same issue, which is the validity of the deed of absolute sale entered into between Tolentino and Purificacion involving the subject property. Moreover, some of the pieces of evidence offered in Civil Case No. MC 99-843 were also presented in Civil Case No. MC00-1300.

The Court of Appeals, thus, opined that the trial court did not err in dismissing Civil Case No. MC00-1300 on the ground of *litis pendentia*. This holds true even if the decision in Civil Case No. 99-843 was not offered in evidence by the parties as, according to the appellate court, *litis pendentia* like *res judicata* cannot be waived by any party.

The Court of Appeals adjudged that Civil Case No. MC 99-843 should subsist since it was filed ahead and the case was an appropriate vehicle for litigating all the issues invoked by the parties. The appellate court found no more need to rule on the other issues raised by the petitioners.

The Arguments of Petitioners