SECOND DIVISION

[G.R. No. 219309, November 22, 2017]

ANGELINA CHUA AND HEIRS OF JOSE MA. CHENG SING PHUAN, PETITIONERS, VS. SPOUSES SANTIAGO CHENG AND AVELINA SIHIYON, RESPONDENTS.

DECISION

CAGUIOA, J:

The Case

This is a petition for review on *certiorari*[1] (Petition) filed under Rule 45 of the Rules of Court assailing the Decision[2] (Assailed Decision) dated November 27, 2014 and Resolution[3] (Assailed Resolution) dated May 25, 2015 issued by the Court of Appeals Eighteenth Division (CA) in CA-G.R. SP. No. 07194.

The Assailed Decision and Resolution dismissed the petition for *certiorari* (CA Petition) filed by Angelina Chua (Angelina) and the heirs of Jose Ma. Cheng Sing Phuan[4] (Heirs of Jose) (collectively, Petitioners) which imputed grave abuse of discretion to Judge Victorino O. Maniba, Jr. (Judge Maniba), in his capacity as Presiding Judge of the Regional Trial Court of Iloilo City, Branch 39 (RTC), for issuing the following in Civil Case No. 03-27527:

(i) Resolution (RTC Resolution) dated January 27, 2012 denying the oral motion of Petitioners to present additional witnesses other than those listed in the Pre-Trial *Order;* and

(ii) Order (RTC Order) dated June 13, 2012 denying Petitioners' motion for reconsideration (MR) of the RTC Resolution.[5]

The Facts

Jose Ma. Cheng Sing Phuan (Jose), Santiago Cheng (Santiago), and Petra Cheng Sing (Petra) are siblings.[6]

The records show that Jose, Santiago, and Petra are the registered owners of two (2) parcels of land situated in Iloilo City, covered by Transfer Certificates of Title Nos. T-53608 and T-53609 (Iloilo Lands).[7] On these lands stands a rice mill housing several pieces of milling equipment, also in the name of the Cheng siblings.[8]

Santiago, together with his wife, Avelina Sihiyon (Avelina) (collectively, Respondents) sent Jose and his wife Angelina several written and verbal demands for the physical partition of the Iloilo Lands, the rice mill and the equipment therein (collectively, Disputed Properties).[9]

As their repeated demands were left unheeded, Respondents filed a complaint against Jose and Angelina for partition and damages (Complaint) before the RTC.[10]

In their Answer, Jose and Angelina averred that they advanced the funds necessary for the acquisition of the Disputed Properties, and that Santiago and Petra failed to reimburse them for the cost of their respective shares.[11] On such basis, Jose and Angelina argued that Santiago, Petra, and their respective spouses do not possess any right to demand the partition of the Disputed Properties.[12]

After submission of the parties' pre-trial briefs and the conduct of a pre-trial conference, Judge Cedrick O. Ruiz (Judge Ruiz), then Presiding Judge of the RTC, issued a Pre-Trial *Order*[13] dated January 12, 2006.[14] Items VI and VIII of the Pre-Trial *Order* state, in part:

> VI. EVIDENCE FOR THE PARTIES
>
> **All evidence to be adduced and presented by both parties shall be limited to those identified below.** All photocopies of documentary evidence have already been pre-marked, the original copies of which will be presented in due time.
>
> A. Evidence of [Respondents]
>
> x x x x
>
> B. Evidence of [Jose and Angelina]
>
> 1. Documentary Evidence
>
> x x x x
>
> 2. Testimonial Evidence
>
> > a.) [Jose]; and
> > b.) [Petra]
>
> x x x x
>
> VIII. COLATILLA
>
> **The parties are hereby directed to go over this Pre-[T]rial Order for any error that may have been committed and to take the**

necessary steps to correct the same within a non-extendible period of five (5) days from receipt of a copy thereof. Thereafter, no corrections will be allowed.[15] (Emphasis and underscoring supplied)

None of the parties manifested any intent to revise the Pre-Trial *Order.* Thus, trial ensued.

Subsequently, Jose passed away after having given his direct testimony in open court. Accordingly, Jose's counsel Atty. Roberto Leong (Atty. Leong) filed a Notice of Death with Motion to Suspend Proceeding dated February 24, 2007, followed by a Motion to Withdraw as Counsel dated May 9, 2007.[16] These motions were granted. [17]

On June 15, 2007, Petitioners, through their new counsel Atty. Nelson C. Oberas (Atty. Oberas), filed a Formal Appearance of New Counsel and Notice of Substitution of Party Defendant,[18] which were duly noted by Judge Ruiz in his Order dated June 25, 2007.[19]

Later, Respondents filed an Urgent Motion dated July 13, 2007 praying that Jose's testimony be stricken from the records since he passed away before cross-examination.[20] Judge Ruiz denied the Urgent Motion and Respondents' subsequent MR.[21] Thereafter, trial continued.

During the hearing held on January 16, 2008, Petitioners orally manifested in open court that they would be presenting six (6) additional witnesses in place of Petra, and sought leave for this purpose.[22] These additional witnesses were not among those listed in the Pre-Trial *Order,* nor were they identified in Jose's Pre-Trial *Brief.* [23] Respondents opposed, and later filed their written objection on March 24, 2008. [24]

In the interim, Judge Maniba assumed the position of Presiding Judge of the RTC. [25]

On January 27, 2012, Judge Maniba issued the RTC Resolution denying Petitioners' oral motion. Petitioners subsequently filed an MR, which Judge Maniba also denied in the RTC Order dated June 13, 2012.[26]

CA Proceedings

Aggrieved, Petitioners filed the CA Petition.[27] Petitioners asserted that Jose, through counsel, reserved the right to present additional witnesses in his **Pre-Trial Brief.** By completely ignoring such reservation made by Jose prior to his death, Petitioners averred that Judge Maniba committed grave abuse of discretion amounting to lack or excess of jurisdiction.[28]

On November 27, 2014, the CA issued the Assailed Decision dismissing the CA

Petition for lack of merit. The dispositive portion of said Decision reads:

> **WHEREFORE,** the instant petition is hereby **DISMISSED.** The [RTC Resolution] and the [RTC Order] x x x in Civil Case No. 03-27527 are AFFIRMED.
>
> **SO ORDERED.**[29]

Notwithstanding the reservation in Jose's Pre-Trial *Brief,* the CA held that the **Pre-Trial *Order*** categorically stated that only Jose's testimony, and that of Petra's, would be presented on Jose's behalf. Considering that Atty. Leong did not take any steps to amend the Pre-Trial *Order* to reflect the general reservation appearing in Jose's Pre-Trial *Brief,* Judge Maniba could not be faulted for exercising his discretion to exclude Petitioners' additional witnesses from trial.[30]

Petitioners filed an MR, which the CA denied in the Assailed Resolution dated May 25, 2015. Petitioners received the Assailed Resolution on June 26, 2015.[31]

Hence, Petitioners filed the present Petition on July 13, 2015.[32]

Respondents filed their Comment[33] on November 5, 2015, to which Petitioners filed their Reply[34] on November 13, 2015.

The Issue

The sole issue for this Court's resolution is whether the CA erred when it affirmed the RTC Resolution and Order denying Petitioners' oral motion to present witnesses not listed in the Pre-Trial *Order.*

The Court's Ruling

The Petition should be denied for lack of merit. The Court finds no ascribable error on the part of the CA in affirming the RTC Resolution and Order, as these issuances merely enforce the rules governing pre-trial.

Paragraph (A)(2)(d) of A.M. No. 03-1-09-SC does not apply.

Petitioners assert that the rigid application of the rules governing pre-trial will curtail the truth and frustrate the ends of justice at their expense.[35] To support this assertion, Petitioners quote[36] A.M. No. 03-1-09-SC, otherwise known as the *Proposed Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures*[37] (Pre-Trial Guidelines), particularly paragraph A(2)(d) thereof, which states:

PRE-TRIAL

A. Civil Cases

x x x x

2. The parties shall submit, at least three (3) days before the pre-trial, pre-trial briefs containing the following:

x x x x

d. The documents or exhibits to be presented, stating the purpose thereof. **(No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been earlier identified and pre-marked during the pre-trial, <u>except if allowed by the court for good cause shown</u>)**[.] (Emphasis and underscoring supplied)

Petitioners' reliance on the purported exception under paragraph A(2)(d) is misplaced. As its introductory phrase clearly indicates, paragraph A(2) enumerates the matters which parties are required to state in the pre-trial brief. Since paragraph A(2) does not prescribe rules on admissibility and presentation of evidence, it should not be interpreted in this manner.

In addition, paragraph (A)(2)(d) refers to documentary and object evidence, and not testimonial evidence, which, in turn, are treated separately under paragraph (A)(2) (f).[38] Accordingly, the scope of the specific exception under paragraph A(2)(d) should not be unduly extended to cover testimonial evidence.

Even assuming, *arguendo,* that the exception under paragraph A(2)(d) may be invoked as basis to allow the presentation of witnesses not listed in the pre-trial order, its application remains contingent upon a showing of good cause sufficient to justify the same. Petitioners attempted to satisfy this condition by citing "special and extraordinary circumstances" which they claim should have impelled the RTC to allow the presentation of their additional witnesses. The Petition summarizes these circumstances, as follows:

A. The presence of a written reservation[39] by then counsel of x x x [Jose and Angelina] to present additional witnesses x x x as shown in [their] [P]re-[T]rial [B]rief x x x[;]

B. The oral manifestation[40] of then counsel of x x x [Jose and Angelina], Atty. Leong, that he is reserving five (5) more witnesses depending on the outcome of the cross-examination of x x x [Jose], without objection interposed by [Respondents] at that time as recorded x x x in [the Transcript of Stenographic Notes (TSN)] x x