

SECOND DIVISION

[G.R. No. 219408, November 08, 2017]

**DONALD FRANCIS GAFFNEY, PETITIONER, VS. GINA V. BUTLER,
RESPONDENT.**

DECISION

CAGUIOA, J:

Before the Court is a Petition for Review^[1] on *Certiorari* (Petition) under Rule 45 of the Rules of Court (Rules) filed by petitioner Donald Francis Gaffney (Donald) against respondent Gina V. Butler (Gina), assailing the Decision^[2] dated February 6, 2015 (questioned Decision) and Resolution^[3] dated July 14, 2015, both of the Court of Appeals (CA) Special Twelfth (12th) Division, in CA-G.R. SP No. 133762.

The CA reversed and set aside the Orders (RTC Orders) dated August 15, 2013^[4] and November 25, 2013^[5] (denying the corresponding Motion for Reconsideration) of the Regional Trial Court (RTC) of Pasig City, Branch 70, in Civil Case No. 73187. Said RTC Orders dismissed Gina's *Motion to Dismiss Ad-Cautelam* (*Motion to Dismiss*) and Donald's *Motion to Declare Defendant in Default* (*Motion to Declare in Default*) as well as the *Motion for Reconsideration* against the denial of the *Motion to Dismiss* subsequently filed by Gina.

The Facts

The facts, as found by the CA, are as follows:

On September 21, 2011, Donald Francis Gaffney ("private respondent") filed a Complaint against Gina V. Butler ("petitioner") for sum of money. Private respondent alleged that sometime between the years 2006 to 2007, petitioner and her husband Anthony Richard Butler approached and invited private respondent to invest in ActiveFun Corporation ("ActiveFun"), an entity engaged in the construction, operation and management of children's play and party facilities. Petitioner was the President of ActiveFun while her husband was its Treasurer and Chief Executive Officer.

Private respondent advanced the approximate amount of Php12,500,000.00 representing his initial investment in ActiveFun. However, petitioner's husband passed away sometime in December 2009. Consequently, the proposed investment agreement did not materialize. Private respondent then demanded the return of his investments from petitioner, who personally undertook to repay the total amount of his investments plus accrued interest. However, despite the lapse of a considerable period of time, petitioner was only able to pay private respondent on October 15, 2010 an initial amount of Php1,000,000.00,

receipt of which was duly acknowledged in writing by private respondent. Several demands through phone calls and e-mails were made to petitioner for her to comply with her undertaking to return the investments of private respondent but to no avail.

On July 13, 2011, a letter was sent to petitioner through registered mail demanding her to pay private respondent and Richard McDonnell (another party who infused funds into ActiveFun) within ten (10) days from receipt of the said letter the aggregate amount of PhP25,000,000.00 plus accrued interests. The period allowed for petitioner within which to pay lapsed without her making any payment. Petitioner in a letter dated August 2, 2011, denied having knowledge of the investments and having offered to buy private respondent's share in ActiveFun. Private respondent was thus constrained to institute a legal action for the enforcement of his claim against petitioner.

In her Answer filed on April 23, 2012, petitioner averred, among others, that she had no knowledge of private respondent's investment in ActiveFun. She, however[,] admitted that she paid private respondent the amount of PhP1,000,000.00 with the qualification that the same was an undue payment, having been misled and intimidated by the latter into believing that she has an obligation to return said investment, when no such obligation exists under the law or under a contract. Moreover, petitioner denied the signature in the Acknowledgment Receipt as hers and claimed that it is a forgery.

After the issues have been joined and Pre-trial was scheduled, parties were directed to have all their documentary evidence pre-marked. **Among those pre-marked by petitioner is a handwritten note signed by private respondent acknowledging receipt of PhP1,000[,]000.00 from petitioner. Unlike the Acknowledgement Receipt attached to the Complaint stating that PhPPhP1,000,000.00 was partial payment for monies invested in ActiveFun, the handwritten note states that the partial payment was for money owed by petitioner's husband.**

Because no full relief can be had against the Estate/heirs of Anthony Richard Butler under the original Complaint, private respondent filed a Motion for Leave to Admit **Amended Complaint for the purpose of impleading the estate or the heirs^[6] of the late Anthony Richard Butler [as additional party-defendant],^[7]** allegedly represented by petitioner as his surviving spouse. He alleged that petitioner required him, as a pre-condition for the payment of the balance, to execute a separate handwritten acknowledgment of the said payment. Petitioner opposed the motion primarily on the ground that "only natural or juridical persons may be parties in an ordinary civil action."

In an Order dated February 13, 2013, public respondent granted private respondent's Motion and admitted the Amended Complaint. Petitioner did not file a motion for reconsideration of the said order. An Alias Summons was served upon petitioner purportedly as the representative of her late

husband.

In the meantime, petitioner filed a Motion to Dismiss Ad-Cautelam, allegedly not as the defendant originally named in the complaint but as the purported representative of her late husband, arguing that the death of her husband did not *ipso facto* make her the representative of his estate. More importantly, a claim against an estate of a deceased person is governed by Rule 86 of the Rules of Court. Hence, it cannot be consolidated with an ordinary civil action in which only natural or juridical persons may be parties pursuant to Section 1, Rule 3 of the Rules of Court. Consequently, the service of summons intended for the estate of the late Anthony Richard Butler was improperly served.

Private respondent on the other hand, filed a Motion to Declare Defendant in Default for failure to file an answer within the reglementary period. x x x^[8] (Emphasis supplied)

Ruling of the RTC

The RTC denied Gina's *Motion to Dismiss* and Donald's *Motion to Declare in Default* in the RTC Order^[9] dated August 15, 2013, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the movant's Motion to Dismiss Ad-Cautelam and plaintiff's Motion to Declare Defendant in Default are hereby **DENIED** for lack of merit.

SO ORDERED.^[10]

On the *Motion to Dismiss*, the RTC ruled that the inclusion of the estate of the late Anthony Richard Butler (Anthony), represented by his surviving spouse Gina, is necessary for a complete relief on the determination or settlement of the controversy raised in the case.^[11] On the *Motion to Declare in Default*, the RTC observed that Gina filed an *Answer to the Amended Complaint* on March 12, 2013; hence, there is no reason to declare her in default.^[12]

Gina filed a *Motion for Reconsideration Ad Cautelam* to the denial of her *Motion to Dismiss*, which the RTC denied for lack of merit in its Order^[13] dated November 25, 2013. No motion for reconsideration was filed as against the denial of the *Motion to Declare in Default*.

Proceedings in, and Ruling of, the CA

Gina thereafter sought relief with the CA through a Petition for Certiorari^[14] under Rule 65 (CA Petition), seeking to nullify the RTC Orders, imputing grave abuse of discretion on the RTC for allowing the estate of Anthony to be named a defendant in the present case and for considering Gina as legal representative of said estate when, in fact, no settlement proceedings thereon had yet been brought.^[15]

Gina prayed that the RTC Orders be reversed and set aside for having been issued with grave abuse of discretion; and Civil Case No. 73187, insofar as it relates to the

estate of Anthony, be dismissed.^[16]

The CA, in the questioned Decision dated February 6, 2015, granted Gina's CA Petition, reversed and set aside the RTC Orders and dismissed the **entire** complaint, in the following manner:

WHEREFORE, premises considered, the petition is **GRANTED**. The Orders dated August 15, 2012 and November 25, 2013 of the Regional Trial Court of Pasig City, Branch 70 in Civil Case No. 73187 are hereby **SET ASIDE**. Accordingly, the complaint for sum of money in Civil Case No. 73187 is hereby ordered **DISMISSED**.

SO ORDERED.^[17]

The CA ruled that dismissal of the case against Anthony's estate is warranted under Section 1, Rule 3 of the Rules of Court which states that "only natural or juridical persons, or entities authorized by law may be parties in a civil action."^[18] The CA likewise ruled that the genuineness and authenticity of the handwritten receipt stating that the advanced amount of P1,000,000.00 is part payment of money owed by Anthony is undisputed.^[19] This suggests that Anthony is the one owing the money and is an indispensable party to the case.^[20] Finally, the CA ruled that there is no legal basis to consider Gina as representative of Anthony's estate since the estate has no legal personality.^[21]

Donald filed a *Motion for Reconsideration* of the questioned Decision, which the CA dismissed for failing to raise any new substantial arguments, in its Resolution^[22] dated July 14, 2015.

Hence, the present Petition filed by Donald, with the following prayer:

1. The questioned Decision and Resolution of the CA be set aside and the RTC Orders, denying Gina's *Motion to Dismiss* be reinstated and affirmed in toto.
2. In the alternative, in the event that the estate of Anthony as represented by Gina, could not be named as additional defendant in the present case, the questioned Decision be reconsidered partially such that the case be dismissed only as against the estate of Anthony and that it be remanded to the RTC for further proceedings against Gina as the sole principal defendant.^[23]

Issues

Whether or not the CA committed reversible error when it:

1. set aside the RTC's ruling that the estate or heirs of Anthony, represented by his surviving spouse Gina, could be named as additional defendant in the present case.
2. dismissed the entire complaint when dismissal of the same was not raised as an issue nor prayed for in the petition before it.^[24]

The Court's Ruling

The Petition is partly meritorious.

The deceased or his estate may not be named a defendant in the present case.

A deceased person does not have the capacity to be sued and may not be made a defendant in a case.^[25] Section 1, Rule 3 of the Revised Rules of Court unequivocally states that "[o]nly natural or juridical persons, or entities authorized by law may be parties in a civil action."

Applying this legal provision, the Court, in *Ventura v. Militante*,^[26] declared that neither a deceased person nor his estate has capacity to be sued, explaining thus:

Parties may be either plaintiffs or defendants. The plaintiff in an action is the party complaining, and a proper party plaintiff is essential to confer jurisdiction on the court. In order to maintain an action in a court of justice, the plaintiff must have an actual legal existence, that is, he, she or it must be a person in law and possessed of a legal entity as either a natural or an artificial person, and no suit can be lawfully prosecuted save in the name of such a person.

The rule is no different as regards party defendants. It is incumbent upon a plaintiff, when he institutes a judicial proceeding, to name the proper party defendant to his cause of action.^[19] In a suit or proceeding *in personam* of an adversary character, the court can acquire no jurisdiction for the purpose of trial or judgment until a party defendant who actually or legally exists and is legally capable of being sued, is brought before it. It has even been held that the question of the legal personality of a party defendant is a question of substance going to the jurisdiction of the court and not one of procedure.

x x x x

Neither a dead person nor his estate may be a party plaintiff in a court action. A deceased person does not have such legal entity as is necessary to bring action so much so that a motion to substitute cannot lie and should be denied by the court. An action begun by a decedent's estate cannot be said to have been begun by a legal person, since an estate is not a legal entity; such an action is a nullity and a motion to amend the party plaintiff will not likewise lie, there being nothing before the court to amend. **Considering that capacity to be sued is a correlative of the capacity to sue, to the same extent, a decedent does not have the capacity to be sued and may not be named a party defendant in a court action.**^[27]
(Emphasis supplied; citations omitted)

Hence, there can be no doubt that a deceased person or his estate may not be impleaded as defendant in a civil action as they lack legal personality. Thus, when Anthony died, his legal personality ceased and he could no longer be impleaded as