

SECOND DIVISION

[G.R. No. 207435, July 01, 2015]

NORMA EDITA R. DY SUN-ONG, PETITIONER, VS. JOSE VICTORY R. DY SUN, RESPONDENT.

DECISION

CARPIO, J.:

The Case

G.R. No. 207435 is a petition for review^[1] assailing the Decision^[2] promulgated on 21 September 2012 as well as the Resolution^[3] promulgated on 6 June 2013 by the Court of Appeals (CA) in CA-G.R. SP No. 122285. The CA set aside the Orders dated 17 March 2011^[4] and 24 October 2011^[5] of Branch 105 of the Regional Trial Court of Quezon City (RTC) in Civil Case No. Q-10-67194.

In its 17 March 2011 Order, the RTC denied respondent Jose Victory R. Dy Sun's (respondent) motion to dismiss and supplemental motion to dismiss. In its 24 October 2011 Order, the RTC denied respondent's motion for reconsideration and motion for bill of particulars. The RTC also denied petitioner Norma Edita R. Dy Sun-Ong's (petitioner) urgent motion to cite respondent in contempt of court and urgent motion to declare respondent in default.

In its 21 September 2012 decision, the CA granted respondent's petition and set aside the RTC's Orders dated 17 March 2011 and 24 October 2011. The CA dismissed petitioner's complaint on the grounds of prescription and laches.

The Facts

The CA recited the facts as follows:

This action stems from a Complaint for Deliver} of Shares including Dividends Due Thereon in Yakult Philippines, Inc., and Damages filed on May 21, 2010 by [petitioner] against her brother [respondent]. It alleged that [respondent] was the holder in trust of some 90,848,000 shares of Yakult Philippines. Inc. ("YPI") belonging to the heirs of the late Don Vicente Dy Sun, Sr., one of whom is plaintiff Norma Edita who claims that 18,169,600 shares belong to her; that written demand for the delivery of the rightful shares of the other heirs was made upon [respondent] but the latter did not send any reply thereto; and that [respondent] is duty bound to account for Norma Edita's YPI shares and for any cash or stock dividends which he may have received therefrom.

On June 18, 2010, summons was served upon [respondent] requiring him to file his answer to the complaint within fifteen (15) days therefrom.

On July 1, 2010, [respondent] filed a Motion to Dismiss interposing the following grounds:

- a. The Honorable Court does not have jurisdiction to act on the Complaint, because [petitioner] did not pay the correct amount of docket fees.
- b. The Complaint fails to state a cause of action.
- c. [Petitioner's] principal or basic 'cause of action,' if any, has prescribed and is therefore barred by the Statute of Limitations.
- d. [Petitioner's] principal or basic 'cause of action,' if any, is also barred by laches, estoppel, abandonment and/or waiver on her part.

On August 4, 2010, [petitioner] filed her Opposition to the Motion to Dismiss contending, among others, that she paid the correct amount of docket fees as computed by the Court personnel and that the accusation that she "deliberately attempted to cheat, defraud or otherwise deprive the judiciary" of the correct amount of docket fees is completely without basis. In addition, she manifested her willingness to pay additional docket fees should it be proven that the amount she paid was insufficient.

Reply (to Opposition to Motion to Dismiss) was filed by [respondent] on August 20, 2010.

On September 23, 2010, the RTC issued an Order, the dispositive portion of which reads:

Accordingly, the case is referred to the Office of the Clerk of Court for the re-assessment of the correct filing fees using as basis the true amount of [petitioner's] claim as stated in par. 4 of the Complaint, to wit:

(4) That each of the above five (5) legal heirs is entitled to one-fifth (1/5) of the 90,848,000 YPI shares or (a) 18,169,600 YPI shares for the [petitioner], (b) 18,169,600 YPI shares for the HEIRS OF THE LATE VICENTE DY SUN, JR., and (c) 18,169,600 YPI shares for ELISA DY SUN-TAN.

and to pay the deficiency, if any, within fifteen days from receipt of the Assessment Report.

The Court defers its ruling on the other issues raised by the [respondent] in the motion to dismiss until the issue of the correct docket fee is resolved.

SO ORDERED.

On November 23, 2010, [respondent] filed a Supplemental Motion to Dismiss alleging as additional grounds that:

e. [Petitioner] has failed to comply with a lawful Order issued by the Honorable Court [*i.e.*, to pay the correct filing fees]; and

f. [Petitioner] has failed to prosecute her action for an unreasonable length of time.

On December 22, 2010, [petitioner] filed an Urgent Manifestation and Motion disclosing that she paid the deficiency filing fees on December 9, 2010 based on the Manifestation and Compliance of the Office of the Clerk of Court dated November 26, 2010, which she received only on December 3, 2010.^[6]

The RTC's Ruling

The RTC issued the assailed Order dated 17 March 2011 and ruled in favor of petitioner in denying both the Motion to Dismiss and Supplemental Motion to Dismiss filed by respondent.

The RTC ruled that the filing fee paid by petitioner in the amount of P301,274.90 was correctly assessed. The filing fee was based on the allegations in paragraph 4 of the complaint as well as on the relief prayed for in the complaint. Moreover, there is no automatic dismissal of the complaint even if the filing fee paid at the time of filing was insufficient. The party involved should demonstrate his willingness to abide by the rules prescribing payment and pay the correct amount within the applicable prescriptive period.

The RTC ruled that the allegations in petitioner's complaint sufficiently established a cause of action. The RTC worded petitioner's cause of action as "whether or not she is entitled to her claim of 18,169,600 YPI shares which [respondent] allegedly held in trust in her favor."^[7] The RTC reasoned that the complaint did not have to establish or allege facts proving the existence of a cause of action at the outset; this would have to be done at the trial on the merits of the case.

The RTC ruled that because it was not clear in the pleadings filed as to when the period of prescription should be reckoned with, there should be a full-blown trial on the merits on the issue of prescription. Finally, the RTC also ruled that it could not find the existence of laches, estoppel, fraud or prescription of actions without conducting trial on the merits.

Respondent filed a Motion for Reconsideration dated 25 April 2011, and an Ad Cautelam Motion for Bill of Particulars dated 26 April 2011. The RTC denied both motions in its assailed Order dated 24 October 2011.

Respondent filed a Petition for Certiorari under Rule 65 before the CA and sought to nullify the RTC's 17 March 2011 and 24 October 2011 Orders.

The CA's Ruling

The CA granted respondent's petition and reversed the RTC's 17 March 2011 and 24 October 2011 Orders.

The CA declared that the RTC correctly ruled that there was sufficient payment of docket fees in the amount of P301,274.90. The Clerk of Court assessed the docket fees on the claimed 18,169,600 shares computed at P1.00 par value per share, and not on the P3.47 book value per share. The book value was never alleged in the complaint. Moreover, non-payment of docket fees at the time of the filing of the complaint does not automatically cause the dismissal of the case as long as the correct fee is paid within the applicable prescriptive period.

The CA ruled that petitioner's allegations satisfied all the elements of a cause of action. The test of the sufficiency of facts as alleged in the complaint to constitute a cause of action is whether or not, admitting the facts as alleged, the court could render a valid judgment thereon in accordance with the prayer in the complaint.

The CA agreed with respondent that petitioner's cause of action has already prescribed. An allegation of prescription can effectively be used in a motion to dismiss when the complaint shows on its face that the action has already prescribed. The CA stated:

Here, it is clear from the allegations in the Complaint that the subject shares of stock which [petitioner] seeks to recover from [respondent] were purportedly transferred *in trust* to the latter by the late Don Vicente Dy Sun, Sr. prior to his death, *i.e.*, prior to December 15, 1988; that since then, [respondent] has been in possession of the subject shares of stock which admittedly increased in value of almost 20 times as of October 26, 2009; and that it was only on March 23, 2010 - *i.e.*, after the lapse of about twenty-two (22) years from the supposed date of transfer of the subject shares of stock - that [petitioner] demanded, in writing, for the delivery of the aforesaid shares of stock, including all dividends due thereon up to the present time. Hence, as aptly argued in the petition, these allegations in the Complaint that were hypothetically admitted by [respondent] (as a result of his motion to dismiss anchored on the ground that the complaint states no cause of action) amount to judicial admissions which may be considered as basis for resolving the question of prescription relative to [petitioner's] cause of action.^[8]

The CA also agreed with respondent that petitioner's long inaction in asserting her right to the subject shares of stock bars her from recovering them from respondent under the equitable principle of laches.

Petitioner filed a Motion for Reconsideration, dated 12 October 2012, of the C A Decision. The C A denied the motion in a Resolution dated 6 June 2013.

The Issues

Petitioner enumerated the following grounds warranting allowance of her petition:

- a. The Presiding Magistrate of the lower court was merely hewing to the letter of the law and the rules, thus, she can hardly be faulted

with gravely abusing her adjudicatory powers in denying respondent's motion to dismiss as well as the motion for bill of particulars filed by the latter.

- b. Respondent is estopped from further assailing the order of the trial judge denying his motion to dismiss as well as the order of denial of his motion for reconsideration considering that he already filed his answer with counterclaim.
- c. The Court of Appeals patently erred and overstepped its judicial prerogatives by entertaining the petition in the proceedings below because certiorari was the wrong remedy resorted to by respondent.^[9]

Respondent, for his part, enumerated the following arguments against the petition:

- 1. The Court of Appeals committed no reversible error in granting the Certiorari Petition. In particular:
 - A. [Petitioner's] principal "implied trust" cause of action against [respondent] has prescribed.
 - B. [Petitioner's] principal "implied trust" cause of action against [respondent] has been barred by laches.
 - C. Certiorari was the correct and proper remedy for questioning the assailed RTC Orders.
 - D. [Respondent] was not estopped from questioning the Assailed Orders before the Court of Appeals.
- 2. [Petitioner] attached a false certification against forum-shopping to her Petition for Review. Thus, the Petition for Review is fatally defective and should be dismissed.^[10]

In her Reply to Comment,^[11] petitioner stated that the only issues in her petition are the following:

- a. Whether or not the action instituted by the petitioner before the [RTC] (Civil Case No. Q-10-67194) has been barred by laches and prescription; and
- b. Whether or not the Court of Appeals patently erred and overstepped its prerogatives in entertaining respondent's petition for certiorari in C.A.-G.R. SP No. 122285.^[12]

The Court's Ruling

The petition has merit. This Court remands the case to the RTC for trial and judgment on the merits. The interpretations of the parties of the factual matters in dispute are so diametrically opposed that the outright dismissal by the CA was improper.