

## FIRST DIVISION

[ G.R. No. 163504, August 05, 2015 ]

**BERLINDA ORIBELLO, PETITIONER, VS. COURT OF APPEALS  
(SPECIAL FORMER TENTH DIVISION), AND REMEDIOS  
ORIBELLO, RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, J.:**

The surviving spouse of the deceased registered owner of the property subject of this action for partition appeals the Decision promulgated on July 31, 2003,<sup>[1]</sup> whereby the Court of Appeals (CA), reviewing the Judgment rendered by the Regional Trial Court (RTC), Branch 31, in Agoo, La Union on March 30, 1998 in Civil Case No. A-1757 entitled *Remedios Oribello, represented by her Atty.-in-Fact Alfredo Selga v. Berlinda P. Oribello*,<sup>[2]</sup> disposed as follows:

**WHEREFORE**, the appealed decision is **VACATED** and **SET ASIDE** and the case **REMANDED** to the lower court for the second phase of a partition suit without prejudice to the filing, if still available, of either a petition for relief from the decree of adoption rendered in Sp. Proc. No. R-94 of the then Court of First Instance of Occidental Mindoro (Branch II) or an action for annulment thereof.

**SO ORDERED.**<sup>[3]</sup>

### Antecedents

The assailed Decision of the CA summarized the factual and procedural antecedents of the case, as follows:

Before the Regional Trial Court of La Union (Branch 31) was an action for partition and damages involving twelve parcels of land xxx situated at Sta. Rita, Agoo, La Union. Eight of said parcels are declared for taxation purposes in the name of Toribio Oribello xxx, two in the names of Toribio and Rosenda Oribello, one in the names of Toribio and and Berlinda Padilla Oribello xxx, and one in the names of Toribio and Ma. Emilia Oribello x x x.

Toribio was twice married. His first wife was Emilia. On September 10, 1981, Toribio's marriage to Emilia was dissolved pursuant to the decision of the Superior Court of California, County of Sacramento, U.S.A.

On March 10, 1982, Toribio married appellee before the municipal mayor of Agoo, La Union. He died intestate on August 18, 1993.

Instituted on May 27, 1997 by Rcmmedios Oribello xxx, represented by her

natural father Alfredo Selga xxx, against appellee, the action was anchored on the theory that appellant is an adopted daughter of Toribio per decision dated March 26, 1974 xxx of the then Court of First Instance x x x of Occidental Mindoro (Branch II) in Sp. Proc. No. R-94 x x x granting the petition of Toribio and Emilia, who were childless, for adoption of appellant, then eight years old.

Denying that appellant is an adopted daughter of Toribio, appellee averred in her answer that the decree of adoption was fraudulently secured by Alfredo; that the proceedings in the first adoption case and the decree of adoption are *void ab initio*; that Toribio could not have filed the first adoption case in Occidental Mindoro because he was a resident of Agoo, La Union throughout his life; that the Toribio referred to in the first adoption case and appellee's husband, Toribio, are two different persons; that the birth certificate of appellant was simulated; that appellant never lived with nor submitted herself to the parental authority and care of Toribio even after appellee's marriage to him; that Alfredo's fraudulent scheme was shown by his filing of another petition for adoption in 1983 in the Regional Trial Court of Occidental Mindoro (Branch 45), docketed as Sp. Proc. No. R-274 xxx, which was archived per order of said court dated December 18, 1986.<sup>[4]</sup>

### **Judgment of the RTC**

On March 30, 1998, the RTC rendered its Judgment after trial, ruling as follows:

WHEREFORE, this case is hereby DISMISSED.

Plaintiff Remedios Selga is not a co-owner of the properties enumerated in paragraph 5 of the Complaint, which defendant inherited from Toribio Oribello except those described in subparagraphs 8, 11 and 12 of said paragraph 5. Said three (3) parcels of land are unknown to and not in the possession of defendant (see, Par. 4 of the Answer with Motion to Dismiss).

This Court awards defendant TWENTY-FIVE THOUSAND PESOS (P25,000.00) in attorney's fees to be paid by plaintiff.

SO ORDERED.<sup>[5]</sup> (Underscoring supplied)

### **Decision of the CA**

On appeal, respondent Remedios Oribello sought the reversal of the judgment of the RTC, insisting that the trial court erred:

I. IN DISMISSING THE COMPLAINT BY STATING IN ITS DECISION THAT THE PLAINTIFF-APPELLANT IS NOT A CO- OWNER OF THE PROPERTIES ENUMERATED IN THE COMPLAINT;

II. IN FINDING THAT THE DECISION IN SPC. PROC. NO. R-94 WAS OBTAINED THRU FRAUD AND MACHINATION;

III. IN NULLIFYING THE DECISION IN SPC. PROC. R-94 WHICH HAS LONG BECOME FINAL AND EXECUTORY; and

IV. IN AWARDING DEFENDANT-APPELLEE ATTORNEY'S FEES.<sup>[6]</sup>

On July 31, 2003,<sup>[7]</sup> the CA promulgated its Decision, viz.:

**WHEREFORE**, the appealed decision is **VACATED** and **SET ASIDE** and the case **REMANDED** to the lower court for the second phase of a partition suit without prejudice to the filing, if still available, of either a petition for relief from the decree of adoption rendered in Sp. Proc. No. R-94 of the then Court of First Instance of Occidental Mindoro (Branch II) or an action for annulment thereof.

**SO ORDERED.**<sup>[8]</sup>

The CA pointed out that even if the adoption proceedings had suffered from infirmities, the RTC did not have the authority to annul the adoption decree and to dismiss the complaint for partition for that reason; and that at any rate the petitioner still had the option either to file a petition for relief or an action for the annulment of the adoption decree in the appropriate court.

#### **Issue**

Hence, this appeal, with the petitioner asserting that:

x x x THERE IS GRAVE ABUSE OF DISCRETION COMMITTED IN THE DECISION AS IT WRONGFULLY ALLOWED THE ILLEGAL USE OF A SURNAME BY THE RESPONDENT TO PURSUE A FRAUDULENT CLAIM AGAINST THE SUBSTANTIVE RIGHTS OF THE PETITIONER AND OF AN INDISPENSABLE PARTY WHO WAS NOT IMPLEADED AS ANY PARTY TO THE COMPLAINT.<sup>[9]</sup>

x x x THERE IS SERIOUS ERROR IN THE DECISION, AS IT IS PREMISED ON MISAPPREHENSION OF FACTS WHICH WRONGFULLY SUSTAINED THE MANIFESTLY FRAUDULENT CLAIM BY THE FATHER OF THE RESPONDENT OF HER FILIATION WITH THE HUSBAND OF THE PETITIONER, WHICH IS NOW BEING INTERPOSED LONG AFTER HIS DEATH AND THRU A PETITION WHEREIN HE WAS NEVER A PARTY OR PETITIONER.<sup>[10]</sup>

x x x THERE IS ERROR OF LAW COMMITTED IN THE DECISION, AS IT TOTALLY DISREGARDED THE DULY ESTABLISHED RULE AND JURISPRUDENCE THAT THE COUNTERCLAIM IN THE ANSWER OF THE PETITION IS A DIRECT ATTACK ON THE NULLITY OF THE ALLEGED PETITION AND JUDGMENT OF ADOPTION, AND THAT THE TRIAL COURT HAS THE AUTHORITY TO SET ASIDE THE SAID NULL AND VOID JUDGMENT AND TO DISMISS THE COMPLAINT.<sup>[11]</sup>

x x x THE PETITION HAS TO BE GIVEN DUE COURSE, IN ORDER THAT THE MANDATES OF THE RULES AGAINST MULTIPLICITY OF SUITS SHALL BE UPHELD, PARTICULARLY THE GRANT OF THE COUNTERCLAIM OF THE PETITION FOR DECLARATION OF NULLITY OF THE ALLEGED PETITION

AND JUDGMENT OF ADOPTION, AS WELL AS FOR THE FULL APPLICATION OF THE RULES ON INTESTATE PROCEEDINGS UNDER RULE 90 OF THE REVISED RULES OF COURT, FOR A FINAL RESOLUTION OF THE SUBSTANTIVE RIGHTS OF THE PARTIES IN ONE AND SINGLE PROCEEDING, THRU THE INSTANT PETITION.<sup>[12]</sup>

In her comment,<sup>[13]</sup> respondent Remedios Oribello insists that she had the right to the partition as the adopted daughter of the late Toribio Oribello; that the petitioner raised a new issue about her failure to implead Toribio Oribello, Jr. despite being an indispensable party for being the alleged son of the late Toribio Oribello; that the misjoinder or non-joinder of parties was not a ground for the dismissal of an action, and could be corrected by a proper amendment; that the petitioner could not successfully assail the decree of adoption by the Court of First Instance in Occidental Mindoro; that unless such decree of adoption was properly annulled or set aside by a court of competent jurisdiction, she could not be barred from enforcing her right as the adopted daughter of the late Toribio Oribello; and that the petition for review should be denied for its utter lack of merit.

### **Ruling of the Court**

The appeal is meritorious.

#### **1.**

#### **The CA correctly held that the validity of the adoption decree in favor of the respondent should not be assailed in an action for partition**

The petitioner insists that the complaint for partition must be dismissed based on her allegations that the adoption decree issued by the CFI, Branch II, of Occidental Mindoro was void; and that her attack against the adoption decree was akin to the counterclaim allowed in *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*,<sup>[14]</sup> an action for the nullification of a certificate of title, because the counterclaim constituted a direct attack on the title.

The petitioner's position is untenable.

In *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Company (now Bank of the Philippine Island)*,<sup>[15]</sup> the Court has traced the evolution of the action to annul the judgment or final order of the CFI, and, later on, of the RTC, and has indicated the proper court with jurisdiction over the action, as follows:

The remedy of annulment of judgment has been long authorized and sanctioned in the Philippines. In *Banco Español-Filipino v. Palanca*, of 1918 vintage, the Court, through Justice Street, recognized that there were only two remedies available under the rules of procedure in force at the time to a party aggrieved by a decision of the Court of First Instance (CFI) that had already attained finality, namely: that under Sec. 113, *Code of Civil Procedure*, which was akin to the petition for relief from judgment under Rule 38, *Rules of Court*; and that under Sec. 513, *Code of Civil Procedure*, which stipulated that the party aggrieved under a judgment rendered by the CFI "upon default" and who had been "deprived of a hearing by fraud, accident, mistake or excusable

negligence" and the CFI had "finally adjourned so that no adequate remedy exists in that court" could "present his petition to the Supreme Court within sixty days after he first learns of the rendition of such judgment, and not thereafter, setting forth the facts and praying to have judgment set aside." It categorically ruled out a mere motion filed for that purpose in the same action as a proper remedy.

The jurisdiction over the action for the annulment of judgment had been lodged in the CFI as a court of general jurisdiction on the basis that the subject matter of the action was not capable of pecuniary estimation. Section 56, paragraph 1, of Act No. 136 (*An Act providing for the Organization of Courts in the Philippine Islands*), effective on June 11, 1901, vested original jurisdiction in the CFI over "all civil actions in which the subject of litigations is not capable of pecuniary estimation." The CFI retained its jurisdiction under Section 44(a) of Republic Act No. 296 (*The Judiciary Act of 1948*), effective on June 17, 1948, which contained a similar provision vesting original jurisdiction in the CFI over "all civil actions in which the subject of the litigation is not capable of pecuniary estimation."

In the period under the regimes of Act No. 136 and Republic Act No. 296, the issues centered on which CFI, or branch thereof, had the jurisdiction over the action for the annulment of judgment. It was held in *Mas v. Dumara-og* that "the power to open, modify or vacate a judgment is not only possessed by, *but is restricted to the court in which the judgment was rendered.*" In *J.M. Tuason & Co., Inc. v. Torres*, the Court declared that "the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to the very same branch which rendered the judgment." In *Sterling Investment Corporation v. Ruiz*, the Court enjoined a branch of the CFI of Rizal from taking cognizance of an action filed with it to annul the judgment of another branch of the same court.

In *Dulap v. Court of Appeals*, the Court observed that the philosophy underlying the pronouncements in these cases was the policy of judicial stability, as expressed in *Dumara-og*, to the end that the judgment of a court of competent jurisdiction could not be interfered with by any court of concurrent jurisdiction. Seeing that the pronouncements in *Dumara-og*, *J.M. Tuason & Co., Inc.* and *Sterling Investment* confining the jurisdiction to annul a judgment to the court or its branch rendering the judgment would "practically amount to judicial legislation," the Court found the occasion to re-examine the pronouncements. Observing that the plaintiffs cause of action in an action to annul the judgment of a court "springs from the alleged nullity of the judgment based on one ground or another, particularly fraud, which fact affords the plaintiff a right to judicial interference in his behalf," and that that the two cases were distinct and separate from each other because "the cause of action (to annul judgment) is entirely different from that in the action which gave rise to the judgment sought to be annulled, for a direct attack against a final and executory judgment is not incidental to, but is the main object of, the proceeding," the Court concluded that "there is no plausible reason why the venue of the action to annul the judgment should necessarily follow the venue of the previous action" if the outcome was