

## SECOND DIVISION

**[ G.R. No. 202370, September 23, 2013 ]**

**JUAN SEVILLA SALAS, JR., PETITIONER, VS. EDEN VILLENA AGUILA, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

This petition for review on certiorari<sup>[1]</sup> assails the 16 March 2012 Decision<sup>[2]</sup> and the 28 June 2012 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 95322. The CA affirmed the 26 September 2008 Order<sup>[4]</sup> of the Regional Trial Court of Nasugbu, Batangas, Branch 14 (RTC), in Civil Case No. 787.

#### The Facts

On 7 September 1985, petitioner Juan Sevilla Salas, Jr. (Salas) and respondent Eden Villena Aguila (Aguila) were married. On 7 June 1986, Aguila gave birth to their daughter, Joan Jiselle. Five months later, Salas left their conjugal dwelling. Since then, he no longer communicated with Aguila or their daughter.

On 7 October 2003, Aguila filed a Petition for Declaration of Nullity of Marriage (petition) citing psychological incapacity under Article 36 of the Family Code. The petition states that they "have no conjugal properties whatsoever."<sup>[5]</sup> In the Return of Summons dated 13 October 2003, the sheriff narrated that Salas instructed his mother Luisa Salas to receive the copy of summons and the petition.<sup>[6]</sup>

On 7 May 2007, the RTC rendered a Decision<sup>[7]</sup> declaring the nullity of the marriage of Salas and Aguila (RTC Decision). The RTC Decision further provides for the "dissolution of their conjugal partnership of gains, if any."<sup>[8]</sup>

On 10 September 2007, Aguila filed a Manifestation and Motion<sup>[9]</sup> stating that she discovered: (a) two 200-square-meter parcels of land with improvements located in San Bartolome, Quezon City, covered by Transfer Certificate of Title (TCT) No. N-259299-A and TCT No. N-255497; and (b) a 108-square-meter parcel of land with improvement located in Tondo, Manila, covered by TCT No. 243373 (collectively, "Discovered Properties"). The registered owner of the Discovered Properties is "Juan S. Salas, married to Rubina C. Salas." The manifestation was set for hearing on 21 September 2007. However, Salas' notice of hearing was returned unserved with the remark, "RTS Refused To Receive."

On 19 September 2007, Salas filed a Manifestation with Entry of Appearance<sup>[10]</sup> requesting for an Entry of Judgment of the RTC Decision since no motion for

reconsideration or appeal was filed and no conjugal property was involved.

On 21 September 2007, the hearing for Aguila's manifestation ensued, with Aguila, her counsel and the state prosecutor present. During the hearing, Aguila testified that on 17 April 2007 someone informed her of the existence of the Discovered Properties. Thereafter, she verified the information and secured copies of TCTs of the Discovered Properties. When asked to clarify, Aguila testified that Rubina C. Salas (Rubina) is Salas' common-law wife.<sup>[11]</sup>

On 8 February 2008, Salas filed an Opposition to the Manifestation<sup>[12]</sup> alleging that there is no conjugal property to be partitioned based on Aguila's petition. According to Salas, Aguila's statement was a judicial admission and was not made through palpable mistake. Salas claimed that Aguila waived her right to the Discovered Properties. Salas likewise enumerated properties he allegedly waived in favor of Aguila, to wit: (1) parcels of land with improvements located in Sugar Landing Subdivision, Alangilan, Batangas City; No. 176 Brias Street, Nasugbu, Batangas; P. Samaniego Street, Silangan, Nasugbu, Batangas; and Batangas City, financed by Filinvest; (2) cash amounting to P200,000.00; and (3) motor vehicles, specifically Honda City and Toyota Tamaraw FX (collectively, "Waived Properties"). Thus, Salas contended that the conjugal properties were deemed partitioned.

### **The Ruling of the Regional Trial Court**

In its 26 September 2008 Order, the RTC ruled in favor of Aguila. The dispositive portion of the Order reads:

WHEREFORE, foregoing premises being considered, the petitioner and the respondent are hereby directed to partition between themselves by proper instruments of conveyance, the following properties, without prejudice to the legitime of their legitimate child, Joan Jisselle Aguila Salas:

- (1) A parcel of land registered in the name of Juan S. Salas married to Rubina C. Salas located in San Bartolome, Quezon City and covered by TCT No. N-259299-A marked as Exhibit "A" and its improvements;
- (2) A parcel of land registered in the name of Juan S. Salas married to Rubina C. Salas located in San Bartolome, Quezon City and covered by TCT No. N-255497 marked as Exhibit "B" and its improvements;
- (3) A parcel of land registered in the name of Juan S. Salas married to Rubina Cortez Salas located in Tondo and covered by TCT No. 243373-Ind. marked as Exhibit "D" and its improvements.

Thereafter, the Court shall confirm the partition so agreed upon by the parties, and such partition, together with the Order of the Court confirming the same, shall be recorded in the Registry of Deeds of the place in which the property is situated.

SO ORDERED.<sup>[13]</sup>

The RTC held that pursuant to the Rules,<sup>[14]</sup> even upon entry of judgment granting the annulment of marriage, the court can proceed with the liquidation, partition and distribution of the conjugal partnership of gains if it has not been judicially adjudicated upon, as in this case. The RTC found that the Discovered Properties are among the conjugal properties to be partitioned and distributed between Salas and Aguila. However, the RTC held that Salas failed to prove the existence of the Waived Properties.

On 11 November 2008, Rubina filed a Complaint-in-Intervention, claiming that: (1) she is Rubina Cortez, a widow and unmarried to Salas; (2) the Discovered Properties are her paraphernal properties; (3) Salas did not contribute money to purchase the Discovered Properties as he had no permanent job in Japan; (4) the RTC did not acquire jurisdiction over her as she was not a party in the case; and (5) she authorized her brother to purchase the Discovered Properties but because he was not well-versed with legal documentation, he registered the properties in the name of "Juan S. Salas, married to Rubina C. Salas."

In its 16 December 2009 Order, the RTC denied the Motion for Reconsideration filed by Salas. The RTC found that Salas failed to prove his allegation that Aguila transferred the Waived Properties to third persons. The RTC emphasized that it cannot go beyond the TCTs, which state that Salas is the registered owner of the Discovered Properties. The RTC further held that Salas and Rubina were at fault for failing to correct the TCTs, if they were not married as they claimed.

Hence, Salas filed an appeal with the CA.

### **The Ruling of the Court of Appeals**

On 16 March 2012, the CA affirmed the order of the RTC.<sup>[15]</sup> The CA ruled that Aguila's statement in her petition is not a judicial admission. The CA pointed out that the petition was filed on 7 October 2003, but Aguila found the Discovered Properties only on 17 April 2007 or before the promulgation of the RTC decision. Thus, the CA concluded that Aguila was palpably mistaken in her petition and it would be unfair to punish her over a matter that she had no knowledge of at the time she made the admission. The CA also ruled that Salas was not deprived of the opportunity to refute Aguila's allegations in her manifestation, even though he was not present in its hearing. The CA likewise held that Rubina cannot collaterally attack a certificate of title.

In a Resolution dated 28 June 2012,<sup>[16]</sup> the CA denied the Motion for Reconsideration<sup>[17]</sup> filed by Salas. Hence, this petition.

### **The Issues**

Salas seeks a reversal and raises the following issues for resolution:

1. The Court of Appeals erred in affirming the trial court's decision ordering the partition of the parcels of land covered by TCT Nos. N-

259299-A and N-255497 in Quezon City and as well as the property in Manila covered by TCT No. 243373 between petitioner and respondent.

2. The Court of Appeals erred in affirming the trial court's decision in not allowing Rubina C. Cortez to intervene in this case<sup>[18]</sup>

### **The Ruling of the Court**

The petition lacks merit.

Since the original manifestation was an action for partition, this Court cannot order a division of the property, unless it first makes a determination as to the existence of a co-ownership.<sup>[19]</sup> Thus, the settlement of the issue of ownership is the first stage in this action.<sup>[20]</sup>

Basic is the rule that the party making an allegation in a civil case has the burden of proving it by a preponderance of evidence.<sup>[21]</sup> Salas alleged that contrary to Aguila's petition stating that they had no conjugal property, they actually acquired the Waived Properties during their marriage. However, the RTC found, and the CA affirmed, that Salas failed to prove the existence and acquisition of the Waived Properties during their marriage:

A perusal of the record shows that the documents submitted by [Salas] as the properties allegedly registered in the name of [Aguila] are merely photocopies and not certified true copies, hence, this Court cannot admit the same as part of the records of this case. These are the following:

(1) TCT No. T-65876 – a parcel of land located at Poblacion, Nasugbu, Batangas, registered in the name of Eden A. Salas, married to Juan Salas Jr. which is cancelled by TCT No. T-105443 in the name of Joan Jiselle A. Salas, single;

(2) TCT No. T-68066 – a parcel of land situated in the Barrio of Landing, Nasugbu, Batangas, registered in the name of Eden A. Salas, married to Juan S. Salas Jr.

Moreover, [Aguila] submitted original copy of Certification issued by Ms. Erlinda A. Dasal, Municipal Assessor of Nasugbu, Batangas, certifying that [Aguila] has no real property (land and improvement) listed in the Assessment Roll for taxation purposes, as of September 17, 2008. Such evidence, in the absence of proof to the contrary, has the presumption of regularity. x x x.

Suffice it to say that such real properties are existing and registered in the name of [Aguila], certified true copies thereof should have been the ones submitted to this Court. Moreover, there is also a presumption that properties registered in the Registry of Deeds are also declared in the Assessment Roll for taxation purposes.<sup>[22]</sup>

On the other hand, Aguila proved that the Discovered Properties were acquired by Salas during their marriage. Both the RTC and the CA agreed that the Discovered Properties registered in Salas' name were acquired during his marriage with Aguila.