

## THIRD DIVISION

[ G.R. No. 173008, February 22, 2012 ]

**NENITA GONZALES, SPOUSES GENEROSA GONZALES AND RODOLFO FERRER, SPOUSES FELIPE GONZALES AND CAROLINA SANTIAGO, SPOUSES LOLITA GONZALES AND GERMOGENES GARLITOS, SPOUSES DOLORES GONZALES AND FRANCISCO COSTIN, SPOUSES CONCHITA GONZALES AND JONATHAN CLAVE, AND SPOUSES BEATRIZ GONZALES AND ROMY CORTES, REPRESENTED BY THEIR ATTORNEY-IN-FACT AND CO-PETITIONER NENITA GONZALES, PETITIONERS, VS. MARIANO BUGAAY AND LUCY BUGAAY, SPOUSES ALICIA BUGAAY AND FELIPE BARCELONA, CONEY "CONIE" BUGAAY, JOEY GATAN, LYDIA BUGAAY, SPOUSES LUZVIMINDA BUGAAY AND REY PAGATPATAN AND BELEN BUGAAY, RESPONDENTS.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this Petition for Review on Certiorari under Rule 45 is the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated March 23, 2006 in CA-G.R. SP No. 91381 as well as the Resolution<sup>[2]</sup> dated June 2, 2006 dismissing petitioners' motion for reconsideration. The CA reversed and set aside the assailed Orders<sup>[3]</sup> of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 39, dated April 13, 2005 and August 8, 2005, respectively, in Civil Case No. 16815, denying the demurrer to evidence filed by herein respondents and instead dismissed petitioners' complaint.

#### **The Facts**

The deceased spouses Bartolome Ayad and Marcelina Tejada ("Spouses Ayad") had five (5) children: Enrico, Encarnacion, Consolacion, Maximiano and Mariano. The latter, who was single, predeceased his parents on December 4, 1943. Marcelina died in September 1950 followed by Bartolome much later on February 17, 1964.

Enrico has remained single. Encarnacion died on April 8, 1966 and is survived by her children, Nenita Gonzales, Generosa Gonzales, Felipe Gonzales, Lolita Gonzales, Dolores Gonzales, Conchita Gonzales and Beatriz Gonzales, the petitioners in this case. Consolacion, meanwhile, was married to the late Imigdio Bugaay. Their children are Mariano Bugaay, Alicia Bugaay, Amelita Bugaay, Rodolfo Bugaay, Letecia Bugaay, Lydia Bugaay, Luzviminda Bugaay and Belen Bugaay, respondents herein. Maximiano died single and without issue on August 20, 1986. The spouses of petitioners, except Nenita, a widow, and those of the respondents, except Lydia and Belen, were joined as parties in this case.

In their Amended Complaint<sup>[4]</sup> for Partition and Annulment of Documents with Damages dated February 5, 1991 against Enrico, Consolacion and the respondents,

petitioners alleged, *inter alia*, that the only surviving children of the Spouses Ayad are Enrico and Consolacion, and that during the Spouses Ayad's lifetime, they owned several agricultural as well as residential properties.

Petitioners averred that in 1987, Enrico executed fraudulent documents covering all the properties owned by the Spouses Ayad in favor of Consolacion and respondents, completely disregarding their rights. Thus, they prayed, among others, for the partition of the Spouses Ayad's estate, the nullification of the documents executed by Enrico, and the award of actual, moral and exemplary damages, as well as attorney's fees.

As affirmative defenses<sup>[5]</sup>, Enrico, Consolacion and respondents claimed that petitioners had long obtained their advance inheritance from the estate of the Spouses Ayad, and that the properties sought to be partitioned are now individually titled in respondents' names.

After due proceedings, the RTC rendered a Decision<sup>[6]</sup> dated November 24, 1995, awarding one-fourth ( $\frac{1}{4}$ ) *pro-indiviso* share of the estate each to Enrico, Maximiano, Encarnacion and Consolacion as the heirs of the Spouses Ayad, excluding Mariano who predeceased them. It likewise declared the Deed of Extrajudicial Settlement and Partition executed by Enrico and respondents, as well as all other documents and muniments of title in their names, as null and void. It also directed the parties to submit a project of partition within 30 days from finality of the Decision.

On December, 13, 1995,<sup>[7]</sup> respondents filed a motion for reconsideration and/or new trial from the said Decision. On November 7, 1996, the RTC, through Judge Eugenio Ramos, issued an Order which reads: "in the event that within a period of one (1) month from today, they have not yet settled the case, it is understood that the motion for reconsideration and/or new trial is submitted for resolution without any further hearing."<sup>[8]</sup>

Without resolving the foregoing motion, the RTC, noting the failure of the parties to submit a project of partition, issued a writ of execution<sup>[9]</sup> on February 17, 2003 giving them a period of 15 days within which to submit their nominees for commissioner, who will partition the subject estate.

Subsequently, the RTC, through then Acting Presiding Judge Emilio V. Angeles, discovered the pendency of the motion for reconsideration and/or new trial and set the same for hearing. In the Order<sup>[10]</sup> dated August 29, 2003, Judge Angeles granted respondents' motion for reconsideration and/or new trial for the specific "purpose of receiving and offering for admission the documents referred to by the [respondents]."<sup>[11]</sup>

However, instead of presenting the documents adverted to, consisting of the documents sought to be annulled, respondents demurred<sup>[12]</sup> to petitioners' evidence on December 6, 2004 which the RTC, this time through Presiding Judge Dionisio C. Sison, denied in the Order<sup>[13]</sup> dated April 13, 2005 as well as respondents' motion for reconsideration in the August 8, 2005 Order.<sup>[14]</sup>

Aggrieved, respondents elevated their case to the CA through a petition for