

## THIRD DIVISION

[ G.R. No. 179955, April 24, 2009 ]

**JOSE SY BANG (DECEASED), ILUMINADA TAN, ZENAIDA SY, REYNALDO SY BANG, JOSE SY BANG, JR., WILSON SY BANG, ROBERT SY BANG, ESTELITA SY, MA. THERESA SY, MARY JANE SY, CARMELO SY BANG, BENEDICT SY BANG, EDWARD SY BANG, ANTHONY SY BANG, EDWIN SY BANG AND MA. EMMA SY, PETITIONERS, VS. ROSAURO SY (DECEASED), ENRIQUE SY (DECEASED) AND JULIET SY, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court are the Decision<sup>[2]</sup> dated 29 May 2007 and the Resolution<sup>[3]</sup> dated 19 September 2007 of the Court of Appeals in CA-G.R. CV No. 82746. In its assailed Decision, the appellate court reversed and set aside the Order<sup>[4]</sup> dated 22 March 2004 of the Regional Trial Court (RTC) of Lucena City, Branch 57, in Civil Case No. 96-81, which granted the Petition for Relief of herein petitioners and ordered the reinstatement of the previously dismissed Petition for Quieting of Title. The assailed Resolution of the Court of Appeals denied the Motion for Reconsideration of its earlier Decision.

The instant case arose from a controversy over the estate of the deceased Sy Bang. Petitioner Jose Sy Bang is one of the five children of the late Sy Bang with his first wife, Ba Nga. Petitioner Iluminada Tan is the wife of Jose Sy Bang, while the rest of the petitioners are their children, except for Anthony Sy Bang who is their nephew. Respondents Rosauro Sy, Enrique Sy and Juliet Sy,<sup>[5]</sup> on the other hand, are three of the eight children of the late Sy Bang with his second wife, Rosita Ferrera Sy.

#### **Complaint for Partition of Estate**

In 1971, Sy Bang died intestate, leaving numerous properties and businesses. In 1980, the heirs of Sy Bang from his second marriage filed a Complaint for Partition before the RTC against the petitioner spouses Jose Sy Bang and Iluminada Tan, as well as the other heirs of Sy Bang. Said case was docketed as **Civil Case No. 8578**. A notice of *lis pendens* was then annotated on several certificates of title covering properties involved in the case. In the course of the partition proceedings, the RTC rendered on 8 June 1982 a Third Partial Decision. The pertinent portion of its *fallo* provided:

WHEREFORE, the Court hereby renders this Third Partial Decision:

(a) Declaring that **all the properties, businesses, or assets, their income, produce, & improvements, as well as all the rights,**

**interests, or participations in the names of defendants Jose Sy Bang & his wife Iuminada Tan and their children, defendants Zenaida & Ma. Emma, both surnamed Sy, and defendants Julian Sy and his wife Rosa Tan, as belonging to the estate of Sy Bang,** including the properties in the names of said defendants which are enumerated in the complaints in this case and all those properties, rights and interests which said defendants may have concealed or fraudulently transferred in the names of other persons, their agents or representatives; (Emphasis ours.)

The aforementioned Third Partial Decision of the RTC was appealed to the Court of Appeals, docketed as **CA-G.R. No. 17686**. In a Resolution dated 6 May 1993, the appellate court affirmed the said Third Partial Decision of the RTC. Petitioners' appeal of the adverse Resolution of the appellate court in CA-G.R. No. 17686 is docketed as **G.R. No. 114217**, still pending before this Court.

In the meantime, it appears that the annotations of the notice of *lis pendens* on the certificates of title covering the disputed properties in Civil Case No. 8578 were eventually cancelled by the Register of Deeds of Lucena City.<sup>[6]</sup> On the belief that petitioner Jose Sy Bang had been transferring some of the properties subject of the partition proceedings, as well as purchasing properties from the funds of Sy Bang's estate, and had said properties registered in his own and his children's names, respondents wrote a letter to the Register of Deeds of Lucena City, asking for the re-annotation of the notice of *lis pendens* on Transfer Certificates of Title (TCTs) No. T-61067, No. T-61068, No. T-61069, No. T-66130, No. T-54805, No. T-60721, No. T-57809 and No. T-47765. These TCTs were all in the names of the petitioner spouses Jose Sy Bang and Iuminada Tan and their children. The Register of Deeds of Lucena City, however, denied<sup>[7]</sup> respondents' request for re-annotation, ruling that the notice of *lis pendens* can only be re-annotated on the titles upon order of the court on a petition filed for this purpose. This prompted respondents to file an appeal before the Land Registration Authority (LRA) of the unfavorable ruling of the Register of Deeds of Lucena City, docketed as **Consulta No. 2471**. In a Resolution<sup>[8]</sup> dated 3 February 1999, the LRA upheld the denial of respondent's request for re-annotation, considering that Section 108 of the Property Registration Decree<sup>[9]</sup> provides that any error, mistake or omission committed in entering a certificate of title or of any memorandum thereon may be corrected only upon order of the court.<sup>[10]</sup>

### **Petition for Quieting of Titles**

To forestall respondents' attempts to interfere with their property rights, petitioners filed on 17 June 1996, a Petition for Quieting of Titles with Prayer for the Issuance of Writ of Prohibition,<sup>[11]</sup> docketed as **Civil Case No. 96-81**. Petitioners claimed therein that they were the absolute owners of the parcels of land (subject lots) covered by TCTs No. T-61067, No. T-61068, No. T-61069, No. T-66130, No. T-54805, No. T-60721, No. T-57809 and No. T-47765, which were all acquired through their individual efforts and with the use of their personal resources.

On 19 July 1996, respondents filed a Motion to Dismiss<sup>[12]</sup> the Petition in Civil Case No. 96-81. In an Order<sup>[13]</sup> dated 4 March 1997, the RTC denied said Motion to

Dismiss after finding that the grounds cited therein were not indubitable. Respondents' Motion for Reconsideration of the 4 March 1997 Order was likewise denied by the RTC in another Order<sup>[14]</sup> dated 14 April 1997. Respondents, thus, filed a Petition for *Certiorari* before the Court of Appeals, docketed as **CA-G.R. SP No. 44043**. In a Decision<sup>[15]</sup> dated 28 August 1997, the Court of Appeals dismissed respondents' Petition in CA-G.R. SP No. 44043 for lack of merit. Similarly ill-fated was respondents' Motion for Reconsideration which was denied by the appellate court in a Resolution dated 5 May 1998. Respondents no longer appealed to this Court the dismissal of its Petition in CA-G.R. SP No. 44043 by the Court of Appeals.

Thereafter, complying with the order of the RTC, respondents filed their Answer to the Petition in Civil Case No. 96-81.<sup>[16]</sup> The parties then submitted their respective pre-trial briefs, and the case was set for trial. However, before the case was heard, petitioner Jose Sy Bang died on 11 September 2001.<sup>[17]</sup> On 9 October 2001, the RTC ordered<sup>[18]</sup> Atty. Eduardo Santos, counsel for petitioners, to submit within ten days an authority from the heirs of Jose Sy Bang for them to be substituted, as well as to secure the conformity of the other heirs who were yet to be impleaded or substituted to be continuously represented by Atty. Eduardo Santos. This directive was then reiterated in an Order<sup>[19]</sup> dated 4 December 2001.

Without complying with the above orders, Atty. Eduardo Santos manifested<sup>[20]</sup> in open court, on 18 April 2002, that he intended to file a Motion to Withdraw the Petition for Quieting of Titles. The next day, on 19 April 2002, Atty. Eduardo Santos filed a Manifestation,<sup>[21]</sup> signed only by himself, which recited:

#### MANIFESTATION

COMES NOW [the] undersigned counsel for and in (sic) behalf of the [herein petitioners] and before this Hon. Court most respectfully manifests, (sic) that:

1. Due to the death of his client Jose Sy Bang, **his wife, [petitioner] Iluminada Tan and children have decided to move for the dismissal of the above case**, considering that the Resolution of the Land Registration Authority as well as the judgment of the Court of Appeals in CA-G.R. No. (sic) SP No. 44043 are enough legal protection of their rights and ownership over the realties in litis.

Wherefore, premises considered, he moves that the above case be dismissed **pursuance (sic) to the desire of the litigant (sic) Iluminada Tan and the heirs of the late Jose Sy Bang**.

Lucena City  
April 19, 2002

Respectfully submitted:

(SGD)Eduardo                      R.  
Santos  
Counsel                      for                      the

[petitioners]  
(Emphasis ours.)

Atty. Eduardo Santos filed a second Manifestation<sup>[22]</sup> on 6 May 2002, which stated:

### **MANIFESTATION**

**COMES NOW** [the] undersigned counsel for and [on] behalf of the [herein petitioners] and before this Hon. Court most respectfully manifests, (sic) that:

1. Pursuance (sic) to his previous statement in open court that the [petitioners] have already evinced no desire to prove damages they suffered due to the attempt of [herein respondents] to cast shadow of doubts (sic) on their eight (8) certificates of titles (sic) through a wrongful annotations (sic), he reiterates the same thru (sic) this manifestation.

2. After the ruling of the Land Registration Authority and supported by the final decision of the Court of Appeals in CA-G.R. Sp. No. 44043, entitled Juliet Sy, et. (sic) al. vs. Judge Federico Tanada, et. (sic) al., his clients find no more necessity to continue the hearing of the above case.

**WHEREFORE**, premises considered, it is prayed that this manifestation be noted.

Lucena City, May 6, 2002

Respectfully submitted:  
(signed)  
(SGD) **EDUARDO R.  
SANTOS**  
Counsel for the [petitioners]  
x x x x

Conforme:  
(signed)

**ROBERT SY BANG**

On even date, the RTC issued an Order,<sup>[23]</sup> treating the first Manifestation filed by Atty. Eduardo Santos on 19 April 2002 as a motion to dismiss Civil Case No. 96-81 and granted the same. Subsequently, in an Order<sup>[24]</sup> dated 18 June 2002, the RTC dismissed Civil Case No. 96-81 entirely, together with respondents' counterclaims.

### **Petition for Relief**

On 23 September 2002, petitioners, now represented by a new counsel, Atty. Vicente M. Joyas, filed a Petition for Relief<sup>[25]</sup> from the Order dated 6 May 2002 of the RTC in Civil Case No. 96-81. Petitioners averred that contrary to the claim of Atty. Eduardo Santos, petitioners Iluminada Tan and the other heirs of Jose Sy Bang were never consulted or informed of the manifestation that sought the dismissal of their Petition for Quieting of Titles. Atty. Eduardo Santos was allegedly able to

secure the signature of petitioner Robert Sy Bang in the Manifestation dated 6 May 2002 by misrepresenting to the latter that the relief being sought in Civil Case No. 96-81 had been satisfactorily granted by the Court of Appeals and the LRA, and that the only thing left to be litigated was the amount of damages, which might as well be waived by signing the said Manifestation. Atty. Eduardo Santos was also said to have collected full payment of his fees by misrepresenting to petitioner Carmelo Sy Bang that petitioners had already won Civil Case No. 96-81, and that there was no more need to litigate the same on the merits.

Petitioners further claimed that Atty. Eduardo Santos continued misinforming them about their case. On 21 June 2002, Atty. Eduardo Santos wrote petitioner Iluminada Tan a letter assuring her that the 28 August 1997 Decision of the Court of Appeals in CA-G.R. SP No. 44043, which recognized that the lots in question were the fruits of her family's labor, could not be legally questioned anymore as entry of judgment was already made in said case. Atty. Eduardo Santos further stated in his letter to petitioner Iluminada Tan that he had also served petitioners' interests well in Civil Case No. 96-81, the Petition for Quieting of Titles, given the declaration by the appellate court in CA-G.R. SP No. 44043 that the subject lots were the gains from petitioners' labor, which foreclosed any future claim of a third party.

However, upon petitioners' perusal of the Court of Appeals Decision dated 28 August 1997 in CA-G.R. SP No. 44043, it was disclosed to them that none of Atty. Eduardo Santos' representations concerning the same was actually contained therein. Petitioners lamented the fact that the Order dated 6 May 2002 of the RTC, dismissing Civil Case No. 96-81 upon the manifestation and motion of Atty. Eduardo Santos, had already become final and executory when they first came to know of said Order on 29 July 2002.

In an Order<sup>[26]</sup> dated 23 September 2002, the RTC found petitioners' Petition for Relief to be sufficient in form and substance and, thus, directed respondents to file their answer thereto.

Atty. Eduardo Santos filed on 7 October 2002 a Manifestation<sup>[27]</sup> before the RTC, wherein he refuted petitioners' allegation that he did not consult petitioners before he moved for the dismissal of Civil Case No. 96-81. Atty. Eduardo Santos asserted that after the death of petitioner Jose Sy Bang, he met with several of the remaining petitioners, particularly, brothers Jose Sy Bang, Jr., Robert Sy Bang, and Carmelo Sy Bang (Sy Bang brothers), who were supposed to testify on their family's acquisition of the subject lots. Since the subject lots were purchased with money loaned from various banks in Lucena City, petitioners Sy Bang brothers decided to consult first with the managers of the creditor banks. Petitioners Sy Bang brothers then learned that the banks had no more records of the loans extended to their father, the late petitioner Jose Sy Bang. This prompted Atty. Eduardo Santos to advise them that their only alternative was to move for the withdrawal of the Petition for Quieting of Titles, considering that the ruling of the LRA in Consulta No. 2471 and the judgment of the Court of Appeals in CA-G.R. SP No. 44043 were adequate protection from any challenge to the titles to the subject lots in petitioners' names. Given the foregoing, petitioners could not claim that Atty. Eduardo Santos did not previously advise them of his move to withdraw the Petition for Quieting of Titles in Civil Case No. 96-81.

On 17 October 2002, respondents filed a Motion to Dismiss<sup>[28]</sup> petitioners' Petition