612 Phil. 355

THIRD DIVISION

[G.R. Nos. 130371 & 130855, August 04, 2009]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. FERDINAND R. MARCOS II AND IMELDA R. MARCOS, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, seeking to set aside the March 13, 1997 Decision[2] and August 27, 1997 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 43450.

The facts of the case are as follows:

On January 11, 1996, the Regional Trial Court (RTC) of Pasig City Branch 156, acting as a probate court, in Special Proceeding No. 10279, issued an Order[4] granting letters testamentary *in solidum* to respondents Ferdinand R. Marcos II and Imelda Trinidad Romualdez-Marcos as executors of the last will and testament of the late Ferdinand E. Marcos.

The dispositive portion of the January 11, 1996 Order reads:

> WHEREFORE, finding the Last Will and Testament of Ferdinand Edralin Marcos to have been duly executed in accordance with law, the same is hereby ALLOWED AND ADMITTED TO PROBATE.
>
> **Upon the filing of a bond in the amount of P50,000.00, let letters testamentary be issued in *solidum* to Imelda Trinidad Romualdez-Marcos AND Ferdinand Romualdez Marcos II, named executors therein.**
>
> Pending the filing of said bond and their oath, Commissioner Liwayway Vinzons-Chato of the Bureau of Internal Revenue is hereby authorized to continue her functions as Special Administrator of the Estate of Ferdinand Edralin Marcos.
>
> Let NOTICE be given to all known heirs and creditors of the decedent, and to any other persons having an interest in the estate for them to lay their claim against the Estate or forever hold their peace.
>
> SO ORDERED.[5]

On January 15, 1996, the petitioner Republic of the Philippines filed a Motion for

Partial Reconsideration[6] in so far as the January 11, 1996 RTC Order granted letters testamentary to respondents. On the other hand, respondent Imelda Marcos filed her own motion for reconsideration on the ground that the will is lost and that petitioner has not proven its existence and validity.

On February 5, 1996, respondent Ferdinand Marcos II filed a Compliance stating that he already filed a bond in the amount of P50,000.00 as directed by the January 11, 1996 RTC Order and that he took his oath as named executor of the will on January 30, 1996.

On March 13, 1996, the RTC issued Letters of Administration[7] to BIR Commissioner Liwayway Vinzons-Chato in accordance with an earlier Order dated September 9, 1994, appointing her as Special Administratrix of the Marcos Estate.

On April 1, 1996, respondent Ferdinand Marcos II filed a Motion to Revoke the Letters of Administration issued by the RTC to BIR Commissioner Vinzons-Chato.

On April 26, 1996, the RTC issued an Order[8] denying the motion for partial reconsideration filed by petitioner as well as the motion for reconsideration filed by respondent Imelda Marcos, the penultimate portion of which reads:

> Under the Rules, a decedent's testamentary privilege must be accorded utmost respect. Guided by this legal precept, therefore, in resolving the two (2) motions at hand, the Court is constrained to DENY both.
>
> Examining the arguments poised by the movants, the Court observed that these are but a mere rehash of issues already raised and passed upon by the Court.
>
> One has to review the previous orders issued by the Court in this case, e.g., the orders dated September 9, 1994, November 25, 1994, as well as October 3, 1995, to see that even as far back then, the Court has considered the matter of competency of the oppositors and of Commissioner Liwayway Vinzons-Chato as having been settled.
>
> It cannot be overstressed that the assailed January 11, 1996 Orders of the Court was arrived at only after extensive consideration of every legal facet available on the question of validity of the Will.
>
> WHEREFORE, for lack of merit, the motion for reconsideration filed separately by petitioner Republic and oppositor Imelda R. Marcos are both DENIED.
>
> SO ORDERED.[9]

On June 6, 1996, petitioner filed with this Court a Petition for Review on *Certiorari,* under Ruled 45 of the Rules of Court, questioning the aforementioned RTC Orders granting letters testamentary to respondents.

On February 5, 1997, the First Division of this Court issued a Resolution referring

the petition to the CA, to wit:

> x x x x
>
> The special civil action for *certiorari* as well as all the other pleadings filed herein are **REFERRED to the Court of Appeals for consideration and adjudication on the merits or any other action as it may deem appropriate**, the latter having jurisdiction concurrent with this Court over the Case, and this Court having been cited to no special and important reason for it to take cognizance of said case in the first instance.[10] (Emphasis and Underscoring Supplied)

On March 13, 1997, the CA issued a Decision,[11] dismissing the referred petition for having taken the wrong mode of appeal, the pertinent portions of which reads:

> Consequently, for having taken the wrong mode of appeal, the present petition should be dismissed in accordance with the same **Supreme Court Circular 2-90 which expressly provides that:**
>
> > **4. Erroneous Appeals - An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.**
>
> IN VIEW OF THE FOREGOING, the instant petition for review is hereby DISMISSED.
>
> SO ORDERED.[12]

Petitioner filed a Motion for Reconsideration,[13] which was, however denied by the CA in a Resolution[14] dated August 27, 1997.

Hence, herein petition, with petitioner raising the following assignment of errors, to wit:

> I.
>
> THE COURT OF APPEALS GRAVELY ERRED IN DISMISSING THE PETITION ON TECHNICAL GROUNDS DESPITE THE SUPREME COURT RESOLUTION SPECIFICALLY REFERRING SAID PETITION FOR A DECISION ON THE MERITS.
>
> II.
>
> THE PROBATE COURT GRAVELY ERRED IN FAILING TO CONSIDER THAT

RESPONDENTS IMELDA R. MARCOS AND FERDINAND R. MARCOS II SHOULD BE DISQUALIFIED TO ACT AND SERVE AS EXECUTORS**.**

III.

THE PROBATE COURT GRAVELY ERRED IN FAILING TO CONSIDER THAT SAID PRIVATE RESPONDENTS HAVE DENIED AND DISCLAIMED THE VERY EXISTENCE AND VALIDITY OF THE MARCOS WILL.

IV.

THE PROBATE COURT GRAVELY ERRED IN FAILING TO CONSIDER THAT ITS ORDER OF JANUARY 11, 1996, WHICH ADMITTED THE MARCOS WILL TO PROBATE AND WHICH DIRECTED THE ISSUANCE OF LETTERS TESTAMENTARY IN SOLIDUM TO PRIVATE RESPONDENTS AS EXECUTORS OF SAID MARCOS WILL, WAS BASED ON THE EVIDENCE OF THE REPUBLIC ALONE.

V.

THE PROBATE COURT GRAVELY ERRED IN FAILING TO CONSIDER THAT BOTH PRIVATE RESPONDENTS HAVE OBSTRUCTED THE TRANSFER TO THE PHILIPPINES OF THE MARCOS ASSETS DEPOSITED IN THE SWISS BANKS.[15]

In the meantime, on October 9, 2002, the RTC, acting on the pending unresolved motions before it, issued an Order[16] which reads:

WHEREFORE, the Court hereby appoints as **joint special administrators** of the estate of the late Ferdinand E. Marcos, the nominee of the Republic of the Philippines (the Undersecretary of the Department of Justice whom the Secretary of Justice will designate for this purpose) and Mrs. Imelda Romualdez Marcos and Mr. Ferdinand R. Marcos II, to serve as such until an executor is finally appointed.

SO ORDERED.

The petition is without merit.

When the assailed Orders granting letters testamentary in *solidum* to respondents were issued by the RTC, petitioner sought to question them by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Supreme Court Circular No. 2-90,[17] which was then in effect, reads:

> 2. Appeals from Regional Trial Courts to the Supreme Court. - Except in criminal cases where the penalty imposed is life imprisonment to reclusion perpetua, **judgments of regional trial courts may be appealed to the Supreme Court only by petition for review on certiorari in accordance with Rule 45 of the Rules of Court in relation to Section 17 of the Judiciary Act of 1948,** as amended, this being the clear intendment of the provision of the Interim Rules that "(a)ppeals to the Supreme Court shall be taken by petition for certiorari which shall be governed by Rule 45 of the Rules of Court. (Emphasis and Underscoring Supplied)

The pertinent portions of Section 17[18] of the Judiciary Act of 1948 read:

> The Supreme Court shall further have exclusive jurisdiction to review, revise, reverse, modify or affirm on *certiorari* as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in -
>
> (1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question;
>
> (2) All cases involving the legality of any tax, impost, assessment or toll, or any penalty imposed in relation thereto;
>
> (3) All cases in which the jurisdiction of any inferior court is in issue;
>
> (4) All other cases in which only errors or questions of law are involved: Provided, however, That if, in addition to constitutional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of *certiorari*; and
>
> (5) Final awards, judgments, decision or orders of the Commission on Elections, Court of Tax Appeals, Court of Industrial Relations, the Public Service Commission, and the Workmen's Compensation Commission.

A reading of Supreme Court Circular 2-90, in relation to Section 17 of the Judiciary Act of 1948, clearly shows that the subject matter of therein petition, that is, the propriety of granting letters testamentary to respondents, do not fall within any ground which can be the subject of a direct appeal to this Court. The CA was thus correct in declaring that the "issues raised by petitioner do not fall within the purview of Section 17 of the Judiciary Act of 1948 such that the Supreme Court should take cognizance of the instant case."[19]

Moreover, the Court's pronouncement in *Suarez v. Judge Villarama*[20] is instructive: