

THIRD DIVISION

[G.R. No. 160426, January 31, 2008]

CAPITOLINA VIVERO NAPERES, Petitioner, vs. AMANDO BARBARONA and GERVACIA MONJAS BARBARONA, Respondents.

RESOLUTION

NACHURA, J.:

Petitioner Capitolina Vivero Napere interposes this petition for review to assail the Court of Appeals' Decision^[1] dated October 9, 2003, which upheld the validity of the Regional Trial Court's decision despite failure to formally order the substitution of the heirs of the deceased defendant, petitioner's husband.

The case stems from the following antecedents:

Respondent Amando Barbarona is the registered owner of Lot No. 3177, situated in *Barangay* San Sotero (formerly Tambis), Javier, Leyte and covered by Original Certificate of Title (OCT) No. P-7350. Lot No. 3176, covered by OCT No. 1110 in the name of Anacleto Napere, adjoins said lot on the northeastern side. After Anacleto died, his son, Juan Napere, and the latter's wife, herein petitioner, planted coconut trees on certain portions of the property with the consent of his co-heirs.

In their complaint, respondents alleged that in April 1980, the spouses Napere, their relatives and hired laborers, by means of stealth and strategy, encroached upon and occupied the northeastern portion of Lot No. 3177; that the Naperes harvested the coconut fruits thereon, appropriated the proceeds thereof, and, despite demands, refused to turn over possession of the area; that in April 1992, a relocation survey was conducted which confirmed that the respondents' property was encroached upon by the Naperes; that on the basis of the relocation survey, the respondents took possession of this encroached portion of the lot and harvested the fruits thereon from April 1993 to December 1993; but that in January 1994, the Naperes repeated their acts by encroaching again on the respondents' property, harvesting the coconuts and appropriating the proceeds thereof, and refusing to vacate the property on demand.

On November 10, 1995, while the case was pending, Juan Napere died. Their counsel informed the court of Juan Napere's death, and submitted the names and addresses of Napere's heirs.

At the pre-trial, the RTC noted that the Naperes were not contesting the respondents' right of possession over the disputed portion of the property but were demanding the rights of a planter in good faith under Articles 445 and 455 of the Civil Code.

On October 17, 1996, the RTC rendered a Decision against the estate of Juan Napere, thus:

WHEREFORE, this Court finds in favor of the plaintiff and against the defendant, hereby declaring the following:

a) The estate of Juan Napere is liable to pay the amount of ONE HUNDRED SEVENTY-NINE THOUSAND TWO HUNDRED (P179,200.00) PESOS in actual damages;

b) The estate of Juan Napere shall be liable to pay FIVE THOUSAND (P5,000.00) PESOS in litigation expenses, and the

c) Cost[s] of suit.

SO ORDERED.^[2]

Petitioner appealed the case to the Court of Appeals (CA), arguing, *inter alia*, that the judgment of the trial court was void for lack of jurisdiction over the heirs who were not ordered substituted as party-defendants for the deceased.

On October 9, 2003, the CA rendered a Decision affirming the RTC Decision.^[3] The appellate court held that failure to substitute the heirs for the deceased defendant will not invalidate the proceedings and the judgment in a case which survives the death of such party.

Thus, this petition for review where the only issue is whether or not the RTC decision is void for lack of jurisdiction over the heirs of Juan Napere. Petitioner alleges that the trial court did not acquire jurisdiction over the persons of the heirs because of its failure to order their substitution pursuant to Section 17,^[4] Rule 3 of the Rule of Court; hence, the proceedings conducted and the decision rendered by the trial court are null and void.

The petition must fail.

When a party to a pending case dies and the claim is not extinguished by such death, the Rules require the substitution of the deceased party by his legal representative or heirs. In such case, counsel is obliged to inform the court of the death of his client and give the name and address of the latter's legal representative.

The complaint for recovery of possession, quieting of title and damages is an action that survives the death of the defendant. Notably, the counsel of Juan Napere complied with his duty to inform the court of his client's death and the names and addresses of the heirs. The trial court, however, failed to order the substitution of the heirs. Nonetheless, despite this oversight, we hold that the proceedings conducted and the judgment rendered by the trial court are valid.

The Court has repeatedly declared that failure of the counsel to comply with his duty to inform the court of the death of his client, such that no substitution is effected, will not invalidate the proceedings and the judgment rendered thereon if the action survives the death of such party.^[5] The trial court's jurisdiction over the case