

FIRST DIVISION

[G.R. No. 143365, December 04, 2008]

GENEROSO SALIGUMBA, ERNESTO SALIGUMBA, AND HEIRS OF SPOUSES VALERIA SALIGUMBA AND ELISEO SALIGUMBA, SR., PETITIONERS, VS. MONICA PALANOG, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review of the Decision dated 24 May 2000 of the Regional Trial Court, Branch 5, Kalibo, Aklan (RTC-Branch 5) in Civil Case No. 5288 for Revival of Judgment. The case is an offshoot of the action for Quieting of Title with Damages in Civil Case No. 2570.

The Facts

Monica Palanog, assisted by her husband Avelino Palanog (spouses Palanogs), filed a complaint dated 28 February 1977 for Quieting of Title with Damages against defendants, spouses Valeria Saligumba and Eliseo Saligumba, Sr. (spouses Saligumbas), before the Regional Trial Court, Branch 3, Kalibo, Aklan (RTC-Branch 3). The case was docketed as Civil Case No. 2570. In the complaint, spouses Palanogs alleged that they have been in actual, open, adverse and continuous possession as owners for more than 50 years of a parcel of land located in Solido, Nabas, Aklan. The spouses Saligumbas allegedly prevented them from entering and residing on the subject premises and had destroyed the barbed wires enclosing the land. Spouses Palanogs prayed that they be declared the true and rightful owners of the land in question.

When the case was called for pre-trial on 22 September 1977, Atty. Edilberto Miralles (Atty. Miralles), counsel for spouses Saligumbas, verbally moved for the appointment of a commissioner to delimit the land in question. Rizalino Go, Deputy Sheriff of Aklan, was appointed commissioner and was directed to submit his report and sketch within 30 days.^[1] Present during the delimitation were spouses Palanogs, spouses Saligumbas, and Ernesto Saligumba, son of spouses Saligumbas.^[2]

After submission of the Commissioner's Report, spouses Palanogs, upon motion, were granted 10 days to amend their complaint to conform with the items mentioned in the report.^[3]

Thereafter, trial on the merits ensued. At the hearing on 1 June 1984, only the counsel for spouses Palanogs appeared. The trial court issued an order resetting the hearing to 15 August 1984 and likewise directed spouses Saligumbas to secure the

services of another counsel who should be ready on that date.^[4] The order sent to Eliseo Saligumba, Sr. was returned to the court unserved with the notation "Party-Deceased" while the order sent to defendant Valeria Saligumba was returned with the notation "Party in Manila."^[5]

At the hearing on 15 August 1984, spouses Palanogs' direct examination was suspended and the continuation of the hearing was set on 25 October 1984. The trial court stated that Atty. Miralles, who had not withdrawn as counsel for spouses Saligumbas despite his appointment as Municipal Circuit Trial Court judge, would be held responsible for the case of spouses Saligumbas until he formally withdrew as counsel. The trial court reminded Atty. Miralles to secure the consent of spouses Saligumbas for his withdrawal.^[6] A copy of this order was sent to Valeria Saligumba but the same was returned unserved with the notation "Party in Manila."^[7]

The hearing set on 25 October 1984 was reset to 25 January 1985 and the trial court directed that a copy of this order be sent to Eliseo Saligumba, Jr. at COA, PNB, Manila.^[8]

The presentation of evidence for spouses Palanogs resumed on 25 January 1985 despite the motion of Atty. Miralles for postponement on the ground that his client was sick. The exhibits were admitted and plaintiffs spouses Palanogs rested their case. Reception of evidence for the defendants spouses Saligumbas was scheduled on 3, 4, and 5 June 1985.^[9]

On 3 June 1985, only spouses Palanogs and counsel appeared. Upon motion of the spouses Palanogs, spouses Saligumbas were deemed to have waived the presentation of their evidence.

On 3 August 1987, after a lapse of more than two years, the trial court considered the case submitted for decision.

On 7 August 1987, RTC-Branch 3 rendered a judgment in Civil Case No. 2570 declaring spouses Palanogs the lawful owners of the subject land and ordering spouses Saligumbas, their agents, representatives and all persons acting in privity with them to vacate the premises and restore possession to spouses Palanogs.

The trial court, in a separate Order dated 7 August 1987, directed that a copy of the court's decision be furnished plaintiff Monica Palanog and defendant Valeria Saligumba.

Thereafter, a motion for the issuance of a writ of execution of the said decision was filed but the trial court, in its Order dated 8 May 1997, ruled that since more than five years had elapsed after the date of its finality, the decision could no longer be executed by mere motion.

Thus, on 9 May 1997, Monica Palanog (respondent), now a widow, filed a Complaint seeking to revive and enforce the Decision dated 7 August 1987 in Civil Case No. 2570 which she claimed has not been barred by the statute of limitations. She impleaded petitioners Generoso Saligumba and Ernesto Saligumba, the heirs and children of the spouses Saligumbas, as defendants. The case was docketed as Civil

Petitioner Generoso Saligumba, for himself and in representation of his brother Ernesto who was out of the country working as a seaman, engaged the services of the Public Attorney's Office, Kalibo, Aklan which filed a motion for time to allow them to file a responsive pleading. Petitioner Generoso Saligumba filed his Answer^[10] alleging that: (1) respondent had no cause of action; (2) the spouses Saligumbas died while Civil Case No. 2570 was pending and no order of substitution was issued and hence, the trial was null and void; and (3) the court did not acquire jurisdiction over the heirs of the spouses Saligumbas and therefore, the judgment was not binding on them.

Meanwhile, on 19 December 1997, the trial court granted respondent's motion to implead additional defendants namely, Eliseo Saligumba, Jr. and Eduardo Saligumba, who are also the heirs and children of spouses Saligumbas.^[11] They were, however, declared in default on 1 October 1999 for failure to file any responsive pleading.^[12]

The Trial Court's Ruling

On 24 May 2000, the RTC-Branch 5 rendered a decision in favor of respondent ordering the revival of judgment in Civil Case No. 2570. The trial court ruled that the non-substitution of the deceased spouses did not have any legal significance. The land subject of Civil Case No. 2570 was the exclusive property of defendant Valeria Saligumba who inherited the same from her deceased parents. The death of her husband, Eliseo Saligumba, Sr., did not change the complexion of the ownership of the property that would require his substitution. The spouses Saligumbas' children, who are the petitioners in this case, had no right to the property while Valeria Saligumba was still alive. The trial court further found that when defendant Valeria Saligumba died, her lawyer, Atty. Miralles, did not inform the court of the death of his client. The trial court thus ruled that the non-substitution of the deceased defendant was solely due to the negligence of counsel. Moreover, petitioner Ernesto Saligumba could not feign ignorance of Civil Case No. 2570 as he was present during the delimitation of the subject land. The trial court likewise held that the decision in Civil Case No. 2570 could not be the subject of a collateral attack. There must be a direct action for the annulment of the said decision.

Petitioners elevated the matter directly to this Court. Hence, the present petition.

The Court's Ruling

The instant case is an action for revival of judgment and the judgment sought to be revived in this case is the decision in the action for quieting of title with damages in Civil Case No. 2570. This is not one for annulment of judgment.

An action for revival of judgment is no more than a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without it being executed upon motion of the prevailing party. It is not intended to re-open any issue affecting the merits of the judgment debtor's case nor the propriety or correctness of the first judgment.^[13] An action for revival of judgment is a new and independent action, different and distinct from either the

recovery of property case or the reconstitution case, wherein the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered.^[14] Revival of judgment is premised on the assumption that the decision to be revived, either by motion or by independent action, is already final and executory.^[15]

The RTC-Branch 3 Decision dated 7 August 1987 in Civil Case No. 2570 had been rendered final and executory by the lapse of time with no motion for reconsideration nor appeal having been filed. While it may be true that the judgment in Civil Case No. 2570 may be revived and its execution may be had, the issue now before us is whether or not execution of judgment can be issued against petitioners who claim that they are not bound by the RTC-Branch 3 Decision dated 7 August 1987 in Civil Case No. 2570.

Petitioners contend that the RTC-Branch 3 Decision of 7 August 1987 in Civil Case No. 2570 is null and void since there was no proper substitution of the deceased spouses Saligumbas despite the trial court's knowledge that the deceased spouses Saligumbas were no longer represented by counsel. They argue that they were deprived of due process and justice was not duly served on them.

Petitioners argue that the trial court even acknowledged the fact of death of spouses Saligumbas but justified the validity of the decision rendered in that case despite lack of substitution because of the negligence or fault of their counsel. Petitioners contend that the duty of counsel for the deceased spouses Saligumbas to inform the court of the death of his clients and to furnish the name and address of the executor, administrator, heir or legal representative of the decedent under Rule 3 presupposes adequate or active representation by counsel. However, the relation of attorney and client was already terminated by the appointment of counsel on record, Atty. Miralles, as Municipal Circuit Trial Court judge even before the deaths of the spouses Saligumbas were known. Petitioners invoke the Order of 1 June 1984 directing the spouses Saligumbas to secure the services of another lawyer to replace Atty. Miralles. The registered mail containing that order was returned to the trial court with the notation that Eliseo Saligumba, Sr. was "deceased." Petitioners thus question the decision in Civil Case No. 2570 as being void and of no legal effect because their parents were not duly represented by counsel of record. Petitioners further argue that they have never taken part in the proceedings in Civil Case No. 2570 nor did they voluntarily appear or participate in the case. It is unfair to bind them in a decision rendered against their deceased parents. Therefore, being a void judgment, it has no legal nor binding effect on petitioners.

Civil Case No. 2570 is an action for quieting of title with damages which is an action involving real property. It is an action that survives pursuant to Section 1, Rule 87^[16] as the claim is not extinguished by the death of a party. And when a party dies in an action that survives, Section 17 of Rule 3 of the Revised Rules of Court^[17] provides for the procedure, thus:

Section 17. *Death of Party.* - After a party dies and the claim is not thereby extinguished, the court shall order, **upon proper notice**, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said

time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased. The court charges involved in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint guardian *ad litem* for the minor heirs. (Emphasis supplied)

Under the express terms of Section 17, in case of death of a party, and upon proper notice, it is the duty of the court to order the legal representative or heir of the deceased to appear for the deceased. In the instant case, it is true that the trial court, after receiving an *informal* notice of death by the mere notation in the envelopes, failed to order the appearance of the legal representative or heir of the deceased. There was no court order for deceased's legal representative or heir to appear, nor did any such legal representative ever appear in court to be substituted for the deceased. Neither did the respondent ever procure the appointment of such legal representative, nor did the heirs ever ask to be substituted.

It appears that Eliseo Saligumba, Sr. died on 18 February 1984 while Valeria Saligumba died on 2 February 1985. No motion for the substitution of the spouses was filed nor an order issued for the substitution of the deceased spouses Saligumbas in Civil Case No. 2570. Atty. Miralles and petitioner Eliseo Saligumba, Jr., despite notices sent to them to appear, never confirmed the death of Eliseo Saligumba, Sr. and Valeria Saligumba. The record is bereft of any evidence proving the death of the spouses, except the mere notations in the envelopes enclosing the trial court's orders which were returned unserved.

Section 17 is explicit that the duty of the court to order the legal representative or heir to appear arises only "upon proper notice." The notation "Party-Deceased" on the unserved notices could not be the "proper notice" contemplated by the rule. As the trial court could not be expected to know or take judicial notice of the death of a party without the proper manifestation from counsel, the trial court was well within its jurisdiction to proceed as it did with the case. Moreover, there is no showing that the court's proceedings were tainted with irregularities.^[18]

Likewise, the plaintiff or his attorney or representative could not be expected to know of the death of the defendant if the attorney for the deceased defendant did not notify the plaintiff or his attorney of such death as required by the rules.^[19] The judge cannot be blamed for sending copies of the orders and notices to defendants spouses in the absence of proof of death or manifestation to that effect from counsel.^[20]

Section 16, Rule 3 of the Revised Rules of Court likewise expressly provides:

SEC. 16. *Duty of attorney upon death, incapacity or incompetency of party.* - Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative.