

## FIRST DIVISION

[ G.R. NO. 139868, June 08, 2006 ]

**ALONZO Q. ANCHETA, PETITIONER, VS. CANDELARIA GUERSEY-DALAYGON, RESPONDENT.**

### DECISION

#### **AUSTRIA-MARTINEZ, J.:**

Spouses Audrey O'Neill (Audrey) and W. Richard Guersey (Richard) were American citizens who have resided in the Philippines for 30 years. They have an adopted daughter, Kyle Guersey Hill (Kyle). On July 29, 1979, Audrey died, leaving a will. In it, she bequeathed her entire estate to Richard, who was also designated as executor.<sup>[1]</sup> The will was admitted to probate before the Orphan's Court of Baltimore, Maryland, U.S.A, which named James N. Phillips as executor due to Richard's renunciation of his appointment.<sup>[2]</sup> The court also named Atty. Alonzo Q. Ancheta (petitioner) of the Quasha Asperilla Ancheta Pena & Nolasco Law Offices as ancillary administrator.<sup>[3]</sup>

In 1981, Richard married Candelaria Guersey-Dalaygon (respondent) with whom he has two children, namely, Kimberly and Kevin.

On October 12, 1982, Audrey's will was also admitted to probate by the then Court of First Instance of Rizal, Branch 25, Seventh Judicial District, Pasig, in Special Proceeding No. 9625.<sup>[4]</sup> As administrator of Audrey's estate in the Philippines, petitioner filed an inventory and appraisal of the following properties: (1) Audrey's conjugal share in real estate with improvements located at 28 Pili Avenue, Forbes Park, Makati, Metro Manila, valued at P764,865.00 (Makati property); (2) a current account in Audrey's name with a cash balance of P12,417.97; and (3) 64,444 shares of stock in A/G Interiors, Inc. worth P64,444.00.<sup>[5]</sup>

On July 20, 1984, Richard died, leaving a will, wherein he bequeathed his entire estate to respondent, save for his rights and interests over the A/G Interiors, Inc. shares, which he left to Kyle.<sup>[6]</sup> The will was also admitted to probate by the Orphan's Court of Ann Arundel, Maryland, U.S.A, and James N. Phillips was likewise appointed as executor, who in turn, designated Atty. William Quasha or any member of the Quasha Asperilla Ancheta Pena & Nolasco Law Offices, as ancillary administrator.

Richard's will was then submitted for probate before the Regional Trial Court of Makati, Branch 138, docketed as Special Proceeding No. M-888.<sup>[7]</sup> Atty. Quasha was appointed as ancillary administrator on July 24, 1986.<sup>[8]</sup>

On October 19, 1987, petitioner filed in Special Proceeding No. 9625, a motion to declare Richard and Kyle as heirs of Audrey.<sup>[9]</sup> Petitioner also filed on October 23,

1987, a project of partition of Audrey's estate, with Richard being apportioned the  $\frac{3}{4}$  undivided interest in the Makati property, 48.333 shares in A/G Interiors, Inc., and P9,313.48 from the Citibank current account; and Kyle, the  $\frac{1}{4}$  undivided interest in the Makati property, 16,111 shares in A/G Interiors, Inc., and P3,104.49 in cash.<sup>[10]</sup>

The motion and project of partition was granted and approved by the trial court in its Order dated February 12, 1988.<sup>[11]</sup> The trial court also issued an Order on April 7, 1988, directing the Register of Deeds of Makati to cancel TCT No. 69792 in the name of Richard and to issue a new title in the joint names of the Estate of W. Richard Guersey ( $\frac{3}{4}$  undivided interest) and Kyle ( $\frac{1}{4}$  undivided interest); directing the Secretary of A/G Interiors, Inc. to transfer 48.333 shares to the Estate of W. Richard Guersey and 16.111 shares to Kyle; and directing the Citibank to release the amount of P12,417.97 to the ancillary administrator for distribution to the heirs.<sup>[12]</sup>

Consequently, the Register of Deeds of Makati issued on June 23, 1988, TCT No. 155823 in the names of the Estate of W. Richard Guersey and Kyle.<sup>[13]</sup>

Meanwhile, the ancillary administrator in Special Proceeding No. M-888 also filed a project of partition wherein  $\frac{2}{5}$  of Richard's  $\frac{3}{4}$  undivided interest in the Makati property was allocated to respondent, while  $\frac{3}{5}$  thereof were allocated to Richard's three children. This was opposed by respondent on the ground that under the law of the State of Maryland, **"a legacy passes to the legatee the entire interest of the testator in the property subject of the legacy."**<sup>[14]</sup> Since Richard left his entire estate to respondent, except for his rights and interests over the A/G Interiors, Inc, shares, then his entire  $\frac{3}{4}$  undivided interest in the Makati property should be given to respondent.

The trial court found merit in respondent's opposition, and in its Order dated December 6, 1991, disapproved the project of partition insofar as it affects the Makati property. The trial court also adjudicated Richard's entire  $\frac{3}{4}$  undivided interest in the Makati property to respondent.<sup>[15]</sup>

On October 20, 1993, respondent filed with the Court of Appeals (CA) an amended complaint for the annulment of the trial court's Orders dated February 12, 1988 and April 7, 1988, issued in Special Proceeding No. 9625.<sup>[16]</sup> Respondent contended that petitioner willfully breached his fiduciary duty when he disregarded the laws of the State of Maryland on the distribution of Audrey's estate in accordance with her will. Respondent argued that since Audrey devised her entire estate to Richard, then the Makati property should be wholly adjudicated to him, and not merely  $\frac{3}{4}$  thereof, and since Richard left his entire estate, except for his rights and interests over the A/G Interiors, Inc., to respondent, then the entire Makati property should now pertain to respondent.

Petitioner filed his Answer denying respondent's allegations. Petitioner contended that he acted in good faith in submitting the project of partition before the trial court in Special Proceeding No. 9625, as he had no knowledge of the State of Maryland's laws on testate and intestate succession. Petitioner alleged that he believed that it is to the "best interests of the surviving children that Philippine law be applied as they would receive their just shares." Petitioner also alleged that the orders sought to be annulled are already final and executory, and cannot be set aside.

On March 18, 1999, the CA rendered the assailed Decision annulling the trial court's Orders dated February 12, 1988 and April 7, 1988, in Special Proceeding No. 9625.

[17] The dispositive portion of the assailed Decision provides:

*WHEREFORE*, the assailed Orders of February 12, 1998 and April 7, 1988 are hereby *ANNULLED* and, in lieu thereof, a new one is entered ordering:

(a) The adjudication of the entire estate of Audrey O'Neill Guersey in favor of the estate of W. Richard Guersey; and

(b) The cancellation of Transfer Certificate of Title No. 15583 of the Makati City Registry and the issuance of a new title in the name of the estate of W. Richard Guersey.

SO ORDERED.[18]

Petitioner filed a motion for reconsideration, but this was denied by the CA per Resolution dated August 27, 1999.[19]

Hence, the herein petition for review on *certiorari* under Rule 45 of the Rules of Court alleging that the CA gravely erred in not holding that:

A) THE ORDERS OF 12 FEBRUARY 1988 AND 07 APRIL 1988 IN SPECIAL PROCEEDINGS NO. 9625 "IN THE MATTER OF THE PETITION FOR PROBATE OF THE WILL OF THE DECEASED AUDREY GUERSEY, ALONZO Q. ANCHETA, ANCILLARY ADMINISTRATOR", ARE VALID AND BINDING AND HAVE LONG BECOME FINAL AND HAVE BEEN FULLY IMPLEMENTED AND EXECUTED AND CAN NO LONGER BE ANNULLED.

B) THE ANCILLARY ADMINISTRATOR HAVING ACTED IN GOOD FAITH, DID NOT COMMIT FRAUD, EITHER EXTRINSIC OR INTRINSIC, IN THE PERFORMANCE OF HIS DUTIES AS ANCILLARY ADMINISTRATOR OF AUDREY O'NEIL GUERSEY'S ESTATE IN THE PHILIPPINES, AND THAT NO FRAUD, EITHER EXTRINSIC OR INTRINSIC, WAS EMPLOYED BY [HIM] IN PROCURING SAID ORDERS.[20]

Petitioner reiterates his arguments before the CA that the Orders dated February 12, 1988 and April 7, 1988 can no longer be annulled because it is a final judgment, which is "conclusive upon the administration as to all matters involved in such judgment or order, and will determine for all time and in all courts, as far as the parties to the proceedings are concerned, all matters therein determined," and the same has already been executed.[21]

Petitioner also contends that that he acted in good faith in performing his duties as an ancillary administrator. He maintains that at the time of the filing of the project of partition, he was not aware of the relevant laws of the State of Maryland, such that the partition was made in accordance with Philippine laws. Petitioner also imputes knowledge on the part of respondent with regard to the terms of Aubrey's will, stating that as early as 1984, he already apprised respondent of the contents of the will and how the estate will be divided.[22]

Respondent argues that petitioner's breach of his fiduciary duty as ancillary administrator of Aubrey's estate amounted to extrinsic fraud. According to respondent, petitioner was duty-bound to follow the express terms of Aubrey's will, and his denial of knowledge of the laws of Maryland cannot stand because petitioner is a senior partner in a prestigious law firm and it was his duty to know the relevant laws.

Respondent also states that she was not able to file any opposition to the project of partition because she was not a party thereto and she learned of the provision of Aubrey's will bequeathing entirely her estate to Richard only after Atty. Ancheta filed a project of partition in Special Proceeding No. M-888 for the settlement of Richard's estate.

A decree of distribution of the estate of a deceased person vests the title to the land of the estate in the distributees, which, if erroneous may be corrected by a timely appeal. Once it becomes final, its binding effect is like any other judgment *in rem*.<sup>[23]</sup> However, in exceptional cases, a final decree of distribution of the estate may be set aside for lack of jurisdiction or fraud.<sup>[24]</sup> Further, in *Ramon v. Ortuzar*,<sup>[25]</sup> the Court ruled that a party interested in a probate proceeding may have a final liquidation set aside when he is left out by reason of circumstances beyond his control or through mistake or inadvertence not imputable to negligence.<sup>[26]</sup>

The petition for annulment was filed before the CA on October 20, 1993, before the issuance of the 1997 Rules of Civil Procedure; hence, the applicable law is *Batas Pambansa Blg. 129* (B.P. 129) or the Judiciary Reorganization Act of 1980. An annulment of judgment filed under B.P. 129 may be based on the ground that a judgment is void for want of jurisdiction or that the judgment was obtained by extrinsic fraud.<sup>[27]</sup> For fraud to become a basis for annulment of judgment, it has to be extrinsic or actual,<sup>[28]</sup> and must be brought within four years from the discovery of the fraud.<sup>[29]</sup>

In the present case, respondent alleged extrinsic fraud as basis for the annulment of the RTC Orders dated February 12, 1988 and April 7, 1988. The CA found merit in respondent's cause and found that petitioner's failure to follow the terms of Audrey's will, despite the latter's declaration of good faith, amounted to extrinsic fraud. The CA ruled that under Article 16 of the Civil Code, it is the national law of the decedent that is applicable, hence, petitioner should have distributed Aubrey's estate in accordance with the terms of her will. The CA also found that petitioner was prompted to distribute Audrey's estate in accordance with Philippine laws in order to equally benefit Audrey and Richard Guersey's adopted daughter, Kyle Guersey Hill.

Petitioner contends that respondent's cause of action had already prescribed because as early as 1984, respondent was already well aware of the terms of Audrey's will,<sup>[30]</sup> and the complaint was filed only in 1993. Respondent, on the other hand, justified her lack of immediate action by saying that she had no opportunity to question petitioner's acts since she was not a party to Special Proceeding No. 9625, and it was only after Atty. Ancheta filed the project of partition in Special Proceeding No. M-888, reducing her inheritance in the estate of Richard that she was prompted to seek another counsel to protect her interest.<sup>[31]</sup>

It should be pointed out that the prescriptive period for annulment of judgment based on extrinsic fraud commences to run from the ***discovery of the fraud or fraudulent act/s***. Respondent's knowledge of the terms of Audrey's will is immaterial in this case since it is not the fraud complained of. Rather, it is petitioner's failure to introduce in evidence the pertinent law of the State of Maryland that is the fraudulent act, or in this case, omission, alleged to have been committed against respondent, and therefore, the four-year period should be counted from the time of respondent's discovery thereof.

Records bear the fact that the filing of the project of partition of Richard's estate, the opposition thereto, and the order of the trial court disallowing the project of partition in Special Proceeding No. M-888 were all done in 1991.<sup>[32]</sup> Respondent cannot be faulted for letting the assailed orders to lapse into finality since it was only through Special Proceeding No. M-888 that she came to comprehend the ramifications of petitioner's acts. Obviously, respondent had no other recourse under the circumstances but to file the annulment case. Since the action for annulment was filed in 1993, clearly, the same has not yet prescribed.

Fraud takes on different shapes and faces. In *Cosmic Lumber Corporation v. Court of Appeals*,<sup>[33]</sup> the Court stated that "man in his ingenuity and fertile imagination will always contrive new schemes to fool the unwary."

There is extrinsic fraud within the meaning of Sec. 9 par. (2), of B.P. Blg. 129, where it is one the effect of which prevents a party from hearing a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters, not pertaining to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy. In other words, extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case by fraud or deception practiced on him by his opponent. Fraud is extrinsic where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had any knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority connives at his defeat; these and similar cases which show that there has never been a real contest in the trial or hearing of the case are reasons for which a new suit may be sustained to set aside and annul the former judgment and open the case for a new and fair hearing.<sup>[34]</sup>

The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.<sup>[35]</sup>

Petitioner is the ancillary administrator of Audrey's estate. As such, he occupies a position of the highest trust and confidence, and he is required to exercise reasonable diligence and act in entire good faith in the performance of that trust. Although he is not a guarantor or insurer of the safety of the estate nor is he expected to be infallible, yet the same degree of prudence, care and judgment which a person of a fair average capacity and ability exercises in similar transactions