

THIRD DIVISION

[G.R. No. 162788, July 28, 2005]

**SPOUSES JULITA DE LA CRUZ AND FELIPE DE LA CRUZ,
PETITIONERS, VS. PEDRO JOAQUIN, RESPONDENT.**

DECISION

PANGANIBAN, J.:

The Rules require the legal representatives of a dead litigant to be substituted as parties to a litigation. This requirement is necessitated by due process. Thus, when the rights of the legal representatives of a decedent are actually recognized and protected, noncompliance or belated formal compliance with the Rules cannot affect the validity of the promulgated decision. After all, due process had thereby been satisfied.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, assailing the August 26, 2003 Decision^[2] and the March 9, 2004 Resolution^[3] of the Court of Appeals (CA) in CA-GR CV No. 34702. The challenged Decision disposed as follows:

"WHEREFORE, the foregoing considered, the appeal is DISMISSED and the assailed decision accordingly AFFIRMED in toto. No costs."^[4]

On the other hand, the trial court's affirmed Decision disposed as follows:

"WHEREFORE, judgment is hereby rendered:

- "a) declaring the Deed of Absolute Sale (Exh. "D") and "Kasunduan" (Exhibit B), to be a sale with right of repurchase;
- "b) ordering the plaintiff to pay the defendants the sum of P9,000.00 by way of repurchasing the land in question;
- "c) ordering the defendants to execute a deed of reconveyance of said land in favor of the plaintiff after the latter has paid them the amount of P9,000.00 to repurchase the land in question;
- "d) ordering the defendants to yield possession of the subject land to the plaintiff after the latter has paid them the amount of P9,000.00 to repurchase the property from them; and
- "e) ordering the defendants to pay the plaintiff the amount of P10,000.00 as actual and compensatory damages; the amount of P5,000[.00] as exemplary damages; the amount of P5,000.00 as expenses of litigation and the amount of P5,000.00 by way of attorney's fees."^[5]

The Facts

The case originated from a Complaint for the recovery of possession and ownership, the cancellation of title, and damages, filed by Pedro Joaquin against petitioners in the Regional Trial Court of Baloc, Sto. Domingo, Nueva Ecija.^[6] Respondent alleged that he had obtained a loan from them in the amount of P9,000 on June 29, 1974, payable after five (5) years; that is, on June 29, 1979. To secure the payment of the obligation, he supposedly executed a Deed of Sale in favor of petitioners. The Deed was for a parcel of land in Pinagpanaan, Talavera, Nueva Ecija, covered by TCT No. T-111802. The parties also executed another document entitled "*Kasunduan*."^[7]

Respondent claimed that the *Kasunduan* showed the Deed of Sale to be actually an equitable mortgage.^[8] Spouses De la Cruz contended that this document was merely an accommodation to allow the repurchase of the property until June 29, 1979, a right that he failed to exercise.^[9]

On April 23, 1990, the RTC issued a Decision in his favor. The trial court declared that the parties had entered into a sale with a right of repurchase.^[10] It further held that respondent had made a valid tender of payment on two separate occasions to exercise his right of repurchase.^[11] Accordingly, petitioners were required to reconvey the property upon his payment.^[12]

Ruling of the Court of Appeals

Sustaining the trial court, the CA noted that petitioners had given respondent the right to repurchase the property within five (5) years from the date of the sale or until June 29, 1979. Accordingly, the parties executed the *Kasunduan* to express the terms and conditions of their actual agreement.^[13] The appellate court also found no reason to overturn the finding that respondent had validly exercised his right to repurchase the land.^[14]

In the March 9, 2004 Resolution, the CA denied reconsideration and ordered a substitution by legal representatives, in view of respondent's death on December 24, 1988.^[15]

Hence, this Petition.^[16]

The Issues

Petitioners assign the following errors for our consideration:

"I. Public Respondent Twelfth Division of the Honorable Court of Appeals seriously erred in dismissing the appeal and affirming in toto the Decision of the trial court in Civil Case No. SD-838;

"II. Public Respondent Twelfth Division of the Honorable Court of Appeals likewise erred in denying [petitioners'] Motion for Reconsideration given the facts and the law therein presented."^[17]

Succinctly, the issues are whether the trial court lost jurisdiction over the case upon the death of Pedro Joaquin, and whether respondent was guilty of forum shopping.
[18]

The Court's Ruling

The Petition has no merit.

First Issue: **Jurisdiction**

Petitioners assert that the RTC's Decision was invalid for lack of jurisdiction.^[19] They claim that respondent died during the pendency of the case. There being no substitution by the heirs, the trial court allegedly lacked jurisdiction over the litigation.^[20]

Rule on Substitution

When a party to a pending action dies and the claim is not extinguished,^[21] the Rules of Court require a substitution of the deceased. The procedure is specifically governed by Section 16 of Rule 3, which reads thus:

"Section 16. *Death of a party; duty of counsel.* -Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

"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 a guardian ad litem for the minor heirs.

"The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

"If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased, and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs."

The rule on the substitution of parties was crafted to protect every party's right to due process.^[22] The estate of the deceased party will continue to be properly represented in the suit through the duly appointed legal representative.^[23] Moreover, no adjudication can be made against the successor of the deceased if the

fundamental right to a day in court is denied.^[24]

The Court has nullified not only trial proceedings conducted without the appearance of the legal representatives of the deceased, but also the resulting judgments.^[25] In those instances, the courts acquired no jurisdiction over the persons of the legal representatives or the heirs upon whom no judgment was binding.^[26]

This general rule notwithstanding, a *formal* substitution by heirs is not necessary when they themselves voluntarily appear, participate in the case, and present evidence in defense of the deceased.^[27] These actions negate any claim that the right to due process was violated.

The Court is not unaware of *Chittick v. Court of Appeals*,^[28] in which the failure of the heirs to substitute for the original plaintiff upon her death led to the nullification of the trial court's Decision. The latter had sought to recover support in arrears and her share in the conjugal partnership. The children who allegedly substituted for her refused to continue the case against their father and vehemently objected to their inclusion as parties.^[29] Moreover, because he died during the pendency of the case, they were bound to substitute for the defendant also. The substitution effectively merged the persons of the plaintiff and the defendant and thus extinguished the obligation being sued upon.^[30]

Clearly, the present case is not similar, much less identical, to the factual milieu of *Chittick*.

Strictly speaking, the rule on the substitution by heirs is not a matter of jurisdiction, but a requirement of due process. Thus, when due process is not violated, as when the right of the representative or heir is recognized and protected, noncompliance or belated formal compliance with the Rules cannot affect the validity of a promulgated decision.^[31] Mere failure to substitute for a deceased plaintiff is not a sufficient ground to nullify a trial court's decision. The alleging party must prove that there was an undeniable violation of due process.

Substitution in the Instant Case

The records of the present case contain a "Motion for Substitution of Party Plaintiff" dated February 15, 2002, filed before the CA. The prayer states as follows:

"WHEREFORE, it is respectfully prayed that the Heirs of the deceased plaintiff-appellee as represented by his daughter Lourdes dela Cruz be substituted as party-plaintiff for the said Pedro Joaquin.

"It is further prayed that henceforth the undersigned counsel^[32] for the heirs of Pedro Joaquin be furnished with copies of notices, orders, resolutions and other pleadings at its address below."

Evidently, the heirs of Pedro Joaquin voluntarily appeared and participated in the case. We stress that the appellate court had ordered^[33] his legal representatives to appear and substitute for him. The substitution even on appeal had been ordered