

FIRST DIVISION

[G.R. No. 131141, October 20, 2000]

HEIRS OF VICTORINA MOTUS PENAVERDE, REPRESENTED BY: EMMANUEL DE VERA MOTUS, CORAZON RODRIGUEZ MOTUS, RODOLFO DE VERA MOTUS, DANILO DE VERA MOTUS, SOCORRO DE VERA MOTUS, FLORENTINO DE VERA MOTUS, IGNACIO DE LA CRUZ MOTUS, LETICIA DE LA CRUZ MOTUS, LEODEGARIO DE LA CRUZ MOTUS, LINO DE LA CRUZ MOTUS, HERNAN MOTUS DE LA CRUZ, ENRIQUE MOTUS DE LA CRUZ, ALEJANDRINO MOTUS DE LA CRUZ, VALERO MOTUS DE LA CRUZ, ARMANIO MOTUS DE LA CRUZ, LAURO MOTUS DE LA CRUZ, IRMA MOTUS, WINFRED MOTUS, LEOVIGILDO MOTUS AND CRISTOBAL MOTUS, PETITIONERS, VS. HEIRS OF MARIANO PENAVERDE, REPRESENTED BY: BERNARDITO FERANIL, MARIAN PENAVERDE FERANIL, MARLITO PENAVERDE FERANIL, MARGOLFO PENAVERDE FERANIL, CATALINA PENAVERDE, CONSUELO PENAVERDE CALLEJA AND VICTORIANO PENAVERDE, AND THE COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

The instant Petition for Review seeks to annul the September 9, 1997 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 40003 dismissing the Petition and affirming the order of dismissal^[2] of the Regional Trial Court of Quezon City, Branch 218, of Civil Case No. Q-95-24711, on the ground of forum-shopping, and the Resolution^[3] of the Court of Appeals denying petitioners' Motion for Reconsideration.

The relevant antecedent facts are as follows:

On February 23, 1994, petitioners Emmanuel De Vera Motus and Corazon Rodriguez Motus filed a Petition for Letters of Administration of the Intestate Estate of the late Mariano Peñaverde,^[4] their alleged uncle, which was docketed as Sp. Proc. No. Q-94-19471.

On August 11, 1995, all the herein petitioners filed a Complaint^[5] against respondents herein, for Annulment of Affidavit of Self-Adjudication, Title and Reopening of Distribution of Estate with prayer for a writ of preliminary mandatory injunction, which was docketed as Civil Case No. Q-95-24711.

The Complaint alleged that petitioners were the nephews and nieces of the late Victorina Motus Peñaverde, the wife of Mariano Peñaverde who predeceased him. Victorina was the sister of their respective parents. Victorina married Mariano Peñaverde on December 29, 1971. During their marriage, the couple acquired a five hundred (500) square meter parcel of land located in Quezon City, covered by

Transfer Certificate of Title No. RT-61118 of the Register of Deeds of Quezon City. The couple had no children. Victorina died on September 2, 1990 while Mariano died on November 3, 1993. Before his death, more specifically on January 29, 1993, Mariano executed an Affidavit of Self-Adjudication, averring that he is the sole heir of Victorina and adjudicating to himself Victorina's estate, consisting of her share in the subject property. Thereafter, Mariano subdivided the land and obtained the corresponding titles for the same. Petitioners, as plaintiffs therein, claim that they were deprived of their rightful share in Victorina's estate.

Instead of filing an Answer to the Complaint, respondents Bernardita Feranil Peñaverde, Marlito F. Peñaverde, Margolfo F. Peñaverde and Marian F. Peñaverde filed a Motion to Dismiss and to Declare Plaintiffs in Contempt of Court,^[6] charging petitioners with forum-shopping. Respondents-movants alleged that there are two (2) pending cases before Branch 222 of the Court, the Petition above-mentioned (Sp. Proc. No. Q-94-19471) and Civil Case No. Q-94-19103, a Complaint for recovery of possession and title filed by respondents Catalina Peñaverde, Consuelo Peñaverde Calleja and Victoriano Peñaverde against the respondents Bernardita Feranil and her children, Marian, Marlito and Margolfo. Plaintiffs in that case averred that Bernardita Feranil and her children had earlier filed a Complaint for Support against Mariano, on the allegation that he sired three children with Bernardita Feranil; namely, Marian, Marlito and Margolfo. The parties reached a compromise agreement whereby Mariano paid them P32,000.00 and, in turn, they executed a written note that upon their receipt of the full payment thereof, they were withdrawing their Complaint for Support and would no longer file any claim relating thereto. When Mariano fell ill, Bernardita and her children offered to take care of him and were allowed to stay in the subject premises. However, after Mariano's death, they refused to vacate the subject property or surrender the titles thereto which they had, in the meantime, gained possession of.

Plaintiffs therein claimed that they were the only surviving heirs of Mariano, as his sister, niece and nephew, respectively. Catalina claimed that from the time Mariano's wife, Victorina, died, she had lived with him in the subject property but, after Mariano's death, she was driven away therefrom by Bernardita and her children.

Petitioners filed their Comment and/or Opposition to the Motion to Dismiss, arguing that forum-shopping is not applicable as there is no identity of cause of action or parties in the three cases.

Meanwhile, the other respondents filed their Answer to the Complaint.

On December 19, 1995, the lower court issued a Resolution^[7] dismissing Civil Case No. Q-95-24711 on the ground of forum-shopping. According to the lower court, all three (3) cases revolved around the issue of who should succeed to the properties of the late Mariano Peñaverde. Petitioners' Motion for Reconsideration was denied by the lower court in its Order dated February 6, 1996.^[8]

Undaunted, petitioners brought a petition for *certiorari* to the Court of Appeals which, on September 9, 1997, issued the assailed Decision dismissing the Petition, thus affirming the lower court's finding of forum-shopping.

With the denial of their Motion for Reconsideration on October 17, 1997, petitioners filed the instant Petition for Review assailing the Court of Appeals' finding of forum-shopping. Forum-shopping is "the institution of two (2) or more actions or