

## FIRST DIVISION

[ G.R. No. 120575, December 16, 1998 ]

**DR. OLIVIA S. PASCUAL, IN HER  
CAPACITY AS SPECIAL ADMINISTRATRIX OF THE  
ESTATE OF THE LATE DON ANDRES PASCUAL AND AS EXECUTRIX  
OF THE TESTATE ESTATE OF THE LATE DOÑA ADELA S. PASCUAL,  
PETITIONER, VS. COURT OF APPEALS; JUDGE MANUEL S.  
PADOLINA, REGIONAL TRIAL COURT OF PASIG, BRANCH 162;  
DEPUTY SHERIFF CARLOS G. MAOG; AND ATTY. JESUS I.  
SANTOS, RESPONDENTS.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

The extraordinary action to annul a final judgment is restricted to the grounds provided by law, in order to prevent it from being used by a losing party to make a complete farce of a duly promulgated decision that has long become final and executory.

#### **The Case**

Before us is a Petition for Review on Certiorari challenging the June 7, 1995 Decision of the Court of Appeals<sup>[1]</sup> in CA-GR SP No. 34487, denying the Petition for Annulment of Judgment. The dispositive portion of the assailed Decision reads:<sup>[2]</sup>

"WHEREFORE, and upon all the foregoing considerations, the petition is hereby DISMISSED, with costs against the petitioner."

#### **The Facts**

Don Andres Pascual died intestate on October 12, 1973 and was survived by (1) his widow, Doña Adela Soldevilla Pascual; (2) the children of his full blood brother, Wenceslao Pascual Sr. -- Esperanza C. Pascual-Bautista, Manuel C. Pascual, Jose C. Pascual, Susana C. Pascual-Guerrero, Erlinda C. Pascual and Wenceslao C. Pascual Jr.; (3) the children of his half blood brother Pedro Pascual -- Avelino Pascual, Isosceles Pascual, Leida Pascual-Martinez, Virginia Pascual-Ner, Nona Pascual-Fernando, Octavio Pascual and Geranaia Pascual-Dubert; (4) the intestate estate of his full blood brother Eleuterio T. Pascual represented by Mamerta P. Fugoso, Abraham S. Sarmiento III, Dominga M. Pascual, Regina Sarmiento-Macaibay, Dominga P. San Diego, Nelia P. Marquez, Silvestre M. Pascual and Eleuterio M. Pascual; and (5) the acknowledged natural children of his full blood brother Eligio Pascual -- Hermes S. Pascual and Olivia S. Pascual (herein petitioner).

On December 11, 1973, Doña Adela (the surviving spouse) filed with the then Court of First Instance (CFI) of Pasig, Rizal, a petition for letters of administration over the

estate of her husband.<sup>[3]</sup> After due notice and hearing, the CFI appointed her special administratrix.<sup>[4]</sup> To assist her with said proceedings, Doña Adela hired, on February 24, 1974, Atty. Jesus I. Santos, herein private respondent, as her counsel for a fee equivalent to fifteen (15) percent of the gross estate of the decedent.

When Batas Pambansa Blg. 129 took effect, the petition was reassigned to the Regional Trial Court (RTC) of Pasig, Branch 162, presided by Judge Manuel Padolina. On November 4, 1985, the heirs of the decedent moved for the approval of their Compromise Agreement, stipulating that three fourths (3/4) of the estate would go to Doña Adela and one fourth (1/4) to the other heirs. The intestate court approved said Agreement on December 10, 1985.

On August 18, 1987, while the settlement was still pending, Doña Adela died, leaving a will which named the petitioner as the sole universal heir. The latter filed at the Regional Trial Court of Malabon, Branch 72, a petition for the probate of said will.

On September 30, 1987, the RTC of Pasig denied the motion to reiterate hereditary rights, which was filed by petitioner and her brother. The Court reasoned that, as illegitimate children of the brother of the decedent, they were barred from acquiring any hereditary right to her intestate estate under Article 992 of the Civil Code.<sup>[5]</sup> On December 17, 1987, it ordered that the private respondent's lien on the hereditary share of Doña Adela be entered into the records.

Six years after Doña Adela's death, on January 19, 1994, to be exact, Judge Padolina rendered a Decision which disposed as follows:<sup>[6]</sup>

"WHEREFORE, in view of the foregoing, let the manner of partition of the estate of Don Andres Pascual be as follows:

'One fourth (1/4) of the properties, personal and real, to the heirs of Don Andres Pascual in accordance with the provisions of the Compromise Agreement of October 16, 1985;

'Three-fourths (3/4) of the properties personal and real, to the estate of Doña Adela Soldevilla Pascual, in accordance with the Compromise Agreement of October 16, 1985.'

"To this end, let the Register of Deeds of the provinces or cities where all real properties of the estate [lie], cancel the certificates of title in the name of Don Andres Pascual (married to Doña Adela S. Pascual), and issue new Certificates of Title in the manner of partition above-mentioned indicating therein the portions they are entitled to.

"With respect to the shares of stock in Liberty Insurance Corporation and San Francisco Del Monte Bank, and the proceeds of the sale of the real properties of the estate and all monies and other personal properties of the estate, the same being capable of physical distribution, [I]et [them] be distributed in accordance with the portions so delineated.

"This Court awards the attorney's fees of Atty. Jesus Santos equivalent to

15% of the  $\frac{3}{4}$  share of the estate of Doña Adela S. Pascual.

"Finally, it is hereby decreed that any and all properties of the estate of Don Andres Pascual, whether real or personal, which may have not been included in the inventory of properties afore-listed in this decision, for any reason whatsoever, and which may later on be uncovered or found in the future, shall likewise be apportioned and distributed, as follows:

1. One-fourth ( $\frac{1}{4}$ ) of the properties, personal and real, to the heirs of Don Andres Pascual in accordance with the provisions of the Compromise Agreement of October 16, 1985; and

2. Three-fourths ( $\frac{3}{4}$ ) of the properties, personal and real, to the estate of Doña Adela Soldevilla Pascual, in accordance with the Compromise Agreement of October 16, 1985.

"All the parties are reminded to strictly comply with the above conditions."

After said Decision had become final and executory, the private respondent filed on March 25, 1994 a Motion for the Issuance of a Writ of Execution insofar as the payment of his attorney's fees was concerned. Despite opposition from the petitioner, the motion was granted in the April 19, 1994 Order of the intestate court, directing "the issuance of a writ of execution in the partial amount of P2,000,000.00 in favor of movant[,] Atty. Jose I. Santos to be implemented against the  $\frac{3}{4}$  share of Doña Adela S. Pascual, upon payment by the movant of the prescribed docket fees for the said partial amount."<sup>[7]</sup>

The following day, April 20, 1994, Branch Clerk of Court Arturo V. Camacho issued a Writ of Execution,<sup>[8]</sup> and Sheriff Carlos G. Maog, a Notice of Garnishment to the San Francisco Del Monte Rural Bank (SFDMA Avenue, Quezon City), garnishing deposits and shares of stocks belonging to the estate of Doña Adela sufficient to cover the amount of P2 million.<sup>[9]</sup>

Two days later, petitioner moved for the reconsideration and the quashal of the Writ of Execution,<sup>[10]</sup> which the RTC of Pasig denied in its Order of June 29, 1994.<sup>[11]</sup> Private respondent countered with two motions to order petitioner to comply with the writ of garnishment and to compel her to appear and explain her failure to comply with the writ.

Feeling aggrieved, petitioner filed with the Court of Appeals (CA) a petition for annulment of the award of attorney's fees in the January 19, 1994 Decision of the trial court; the Order of April 19, 1994, granting a Writ of Execution; the Writ of Execution dated April 20, 1994; and the Order of June 29, 1994, denying petitioner's motion for reconsideration.

As stated earlier, the appellate court dismissed the petition, ruling that the intestate court had jurisdiction to make the questioned award and that petitioner had been accorded due process. It noted that the private respondent had filed his claim as early as the first quarter of 1974; and that, in its order of December 17, 1987, the trial court had entered the attorney's lien into the records. It upheld the jurisdiction

of the intestate court on the ground that, although not incurred by the deceased during his lifetime, the monetary claim was related to the ordinary acts of administration of the estate. The CA similarly declared that the petitioner had been accorded due process. It noted that, despite knowledge of the claim, she did not oppose or hint at any resistance to the payment of said claim. She also chose not to move for reconsideration or to file an appeal after the award had been made. Indubitably, the award became final and executory.

Hence, this petition.<sup>[12]</sup> On October 21, 1997, after the case was submitted for resolution by the original parties, Crisanto S. Cornejo and the other heirs of Doña Adela filed an Omnibus Motion, which in sum, alleged that Judge Padolina conspired with petitioner and private respondent to place the entire Pascual estate under their control. Allegedly, Judge Padolina, in his Order of October 7, 1988, negated Cornejo and Jose Pascual's letter of administration by directing them "to refrain [from] initiating any move to dispossess or eject Olivia S. Pascual from her residence; to refrain from advertising any property of the estate for sale without prior motion duly filed therefor with due notice to all parties and prior approval of the Court; not to interfere in the management of the bank and to deposit immediately in a reputable bank in the name of the estate rentals due the estate until after the said motion shall have been resolved by the Court." They claim that, without any hearing or notice to them, the judge approved and awarded the attorney's fees of private respondent, who was purportedly his classmate and compadre. Finally, petitioner replaced Cornejo as judicial administrator on March 6, 1989 five months after the latter had served as such.

Furthermore, they allege that, in the settlement of Doña Adela's estate, private respondent filed a similar collection case before the Regional Trial Court of Malabon, Branch 73 which was, however, dismissed for violating the rules against forum shopping. Private respondent allegedly filed another collection case before the Regional Trial Court of Makati, Branch 66, wherein petitioner, in her Answer, alleged that she had paid him approximately P8 million from the time his services were engaged, aside from some unreported "commissions" from tenants, squatters and other businesses included in the Pascual estate.

Consequently, petitioners-in-intervention pray for (1) the inhibition and/or disqualification of Judge Padolina from hearing Sp. Proc. No. 7554 or, alternatively, another raffle of the case to any other RTC branch in Pasig or Manila; (2) the consolidation of Sp. Proc. No. 7554 (Intestate Estate of Andres Pascual) with Sp. Proc. No. 136-MN (Testate Estate of Adela Pascual) or both with Sp. Proc. No. 88948, filed before the RTC of Manila, Branch 40, presided by Judge Felipe R. Pacquing (Intestate Estate of Toribia Tolentino Soldevilla, mother of Doña Adela Pascual); (3) the investigation of the authenticity, preparation and legal compliance of Doña Adela Pascual's Last Will and Testament dated December 27, 1978, more specifically, the private respondent's participation in designating petitioner as Doña Adela's sole universal heir; (4) the setting aside of the Decisions rendered by respondent judge in Sp. Proc. No. 7554 dated January 19, 1994, and by Judge Benjamin del Mundo-Aquino in Sp. Proc. No. 136-MN; and (5) the reopening of both cases and their remand to the court *a quo*.

In their separate Comments, both petitioner and private respondent oppose the grant of this Omnibus Motion for being untimely and improper.

## **The Issues**

In her Memorandum,<sup>[13]</sup> petitioner alleges that the reversal of the assailed Decision is called for, in view of the following "compelling reasons":<sup>[14]</sup>

- a. The portion of the decision dated January 19, 1994 awarding attorney's fees is void from the beginning because it was made after xxx [the] trial court had lost its jurisdiction over the attorney's client by reason of her death[;]
- b. The questioned portion of the decision of xxx [the] trial court is void because it deprived the heirs of Doña Adela due process of law[;]
- c. The questioned portion of the decision of respondent trial court is void from the beginning because the body of the decision does not state the facts and the law upon which the award is based[;]
- d. Petitioner has not lost her right to question the conclusion of respondent trial court on the amount of attorney's fees[;] and
- e. The writ of execution was wrongfully issued."

The Court believes that the resolution of this case hinges on the following issues: (1) Did the trial court have jurisdiction to make the questioned award of attorney's fees? (2) Were the heirs of Doña Adela, who were represented by petitioner, deprived of due process? (3) Were there factual and legal bases for the award of attorney's fees? Additionally, the Court will dispose of Crisanto S. Cornejo's "Omnibus Motion."

## **The Court's Ruling**

The Petition is devoid of merit. Likewise, the Omnibus Motion is unmeritorious.

The failure to perfect an appeal in the manner and within the period fixed by law renders the decision final and executory. Consequently, no court can exercise appellate jurisdiction to review such decision.<sup>[15]</sup> Upon the other hand, the extraordinary action to annul a final judgment is limited to the grounds provided by law and cannot be used as a stratagem to reopen the entire controversy and thereby make a complete farce of a duly promulgated decision that has long become final and executory.<sup>[16]</sup> Accordingly, this review shall consider only matters pertaining to the jurisprudential grounds for the annulment of a final judgment:<sup>[17]</sup>

"xxx Annulment of judgment may xxx be based on the ground that [either] a judgment is void for want of jurisdiction or the judgment was obtained by extrinsic fraud. xxxx."<sup>[18]</sup>

Petitioner does not allege extrinsic fraud, but bases her petition only on alleged lack of jurisdiction and due process.

### **First Issue:**

#### **Jurisdiction over the Person of the Defendant**