

SPECIAL FOURTH DIVISION

[CA-G.R. CV No. 98264, October 30, 2014]

PRECY A. BUNYI-LABAO, PLAINTIFF-APPELLANT, VS. MIRSA P. LABAO AND FRANCIS RODNICK B. CRUZ, DEFENDANTS-APPELLEES.

D E C I S I O N

CARANDANG, J.:

This is an appeal under Rule 41 of the Rules of Court, assailing the 6 September 2010 Order^[1] of the Pasig City Regional Trial Court Branch 266 in Civil Case No. 72159. The challenged Order disposed thus:

“WHEREFORE, in the light of the foregoing, the Amended Complaint of plaintiff is DISMISSED with prejudice.”

The facts are as follows:

Spouses Ruben Labao and Gloria Factor were the registered owners of a parcel of land (subject property) located in Tipas, Taguig City. The subject property was covered by Original Certificate of Title No. 9445-0053 issued by the Register of Deeds of the Province of Rizal.

After the death of Gloria, Ruben contracted a subsequent marriage with herein plaintiff-appellant Precy A. Bunyi-Labao on 31 May 2002. On 10 November 2002 Ruben died. On 18 July 2003, defendant-appellee Mirsa P. Labao executed an Affidavit of Self-Adjudication declaring herself to be the sole heir of Ruben. Accordingly, OCT No. 9445-0053 was cancelled and, in lieu thereof, TCT No. 42351 was issued on 9 October 2003 in the name of defendant-appellee Mirsa Labao. She then sold the subject property to defendant-appellee Francis Rodnick Cruz in consideration of P700,000.00. Thus, TCT No. 42351 was cancelled and replaced by TCT No. 43 on 24 February 2004 under the name of defendant-appellee Cruz.

On 6 August 2009, plaintiff-appellant filed a Complaint for Nullification of Title against the defendants-appellees which was docketed as Civil Case No. 72159-TG. She maintained that she is the sole heir of her husband Ruben and not the defendant-appellee Mirsa Labao. Hence, she prayed that TCT No. 42351 be nullified and the sale of the subject property to defendant-appellee Cruz be declared null and void.

In his Answer filed on 9 December 2009, defendant-appellee Cruz refuted the allegations in the Complaint. He countered that the trial court has no jurisdiction to act on the Complaint for failure of plaintiff-appellant to pay the correct docket fees.

He added that plaintiff-appellant was guilty of forum shopping because she failed to disclose in her certification against non-forum shopping that she previously filed a Motion for Intervention in Civil Case No. 69773 entitled "Reggie F. Labao vs. Mirsa Labao, et al." involving herein subject property before the court *a quo*. Said motion was denied by the trial court on the ground that plaintiff-appellant has no interest over the subject property.

Defendant-appellee Cruz also filed a Cross-Claim against defendant-appellee Mirsa Labao arguing that he is a purchaser in good faith and for value and that he would have not parted with his money had he known that there was a controversy in the ownership of the subject property. Thus, he prayed that in the event that trial court uphold plaintiff-appellant's claim over the subject property, defendant-appellee Mirsa Labao should be made to pay all the amounts he paid to the latter with legal interest, among others.

On her part, defendant-appellee Mirsa Labao filed a Motion to Dismiss on the grounds that (1) the Complaint failed to state a cause of action, and (2) plaintiff-appellant violated the rule against forum shopping. She averred that plaintiff-appellant has no interest over the subject property because the conjugal partnership property of Ruben and Gloria was not liquidated by the former upon the death of the latter. Hence, when Ruben contracted the subsequent marriage with plaintiff-appellant, the property regime that governed their marriage was one of complete separation of property. Defendant-appellee Mirsa Labao likewise pointed out plaintiff-appellant's alleged violation on prohibition against forum shopping when she attempted to conceal her Motion to Intervene in Civil Case No. 69773 which was denied by the trial court because she purportedly has no interest on the subject property.

In her *Opposition to Defendant Mirsa P. Labao's Motion to Dismiss with Urgent Motions for Leave of Court to Amend Complaint and to Admit Attached Amended Complaint*, plaintiff-appellant claimed that the allegations in the Complaint *a quo* sufficiently stated a cause of action and the issue of whether she has interest over the subject property can better be threshed out in a full-blown trial. She also countered that the prohibition against forum shopping is inapplicable on her because the denial of his Motion for Intervention was not on the merits but merely a preliminary finding by the trial court. Hence, she can still raise the said issue in an independent action such as the Complaint *a quo*.

Plaintiff-appellant subsequently moved for the amendment of the Complaint to add in his prayer the nullification of TCT No. 43 which was issued in the name of defendant-appellee Cruz in lieu of TCT No. 42351 in the name of defendant-appellee Mirsa Labao.

On 6 September 2010, the trial court issued the assailed Order granting plaintiff-appellant's motion to admit the amended complaint. The trial court also ruled that the Amended Complaint sufficiently stated a cause of action against the defendants-appellees. Still, the trial court dismissed the Amended Complaint on the ground of plaintiff-appellant's violation on the prohibition against forum shopping. In so ruling, the trial court ratiocinated that it already ruled in Civil Case No. 69773 that plaintiff-appellant has no interest over the subject property. The trial court thus concluded that her subsequent filing of the Complaint *a quo* raising the same issues again is a clear case of forum shopping.