

# FIRST DIVISION

[ G.R. No. 233507, February 10, 2021 ]

**SPOUSES BERNARDO T. CONSTANTINO AND EDITHA B. CONSTANTINO, PETITIONERS, VS. ALEJANDRIA N. BENITEZ, RESPONDENT.**

## DECISION

**CARANDANG, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court (Rules), assailing the Decision<sup>[2]</sup> dated March 28, 2017 and the Resolution<sup>[3]</sup> dated July 27, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 140213 filed by petitioners Bernardo T. Constantino and Editha B. Constantino (collectively, Sps. Constantino).

### Antecedents

On December 1, 2004, respondent Alejandria Benitez (Alejandria) filed a petition for the settlement, division, and partition of the intestate estate of her husband Romeo Benitez (Romeo) before the Regional Trial Court of Batac, Ilocos Norte, Branch 18 (intestate court) docketed as Spec. Proc. 4506-18. Romeo, who died on June 15, 2004,<sup>[4]</sup> left several real estate properties in Laoag and Badoc, Ilocos Norte with an estimated value of P540,000.00. He is survived by Alejandria, and their two daughters, Fritzie Joy Benitez (Fritzie Joy), and Analiza Benitez (Analiza) who is adopted. Alejandria alleged that Romeo had no existing debts other than taxes and funeral expenses. She asked to be appointed administrator of Romeo's estate pending the settlement and partition among themselves.<sup>[5]</sup> Romeo's estate includes *inter alia* properties located in Laoag City such as Lot No. 9398-B (covered by TCT No. T-26828)<sup>[6]</sup>, and Lot No. 9400-C (covered by TCT No. T-27844).<sup>[7]</sup>

There being no opposition to the petition, the intestate court rendered a Decision<sup>[8]</sup> dated April 22, 2005, the dispositive portion of which states:

WHEREFORE, premises considered, it is hereby declared that petitioner ALEJANDRIA N. BENITEZ, ANALIZA N. BENITEZ and FRITZIE JOY N. BENITEZ are the only lawful heirs of the deceased Romeo F. Benitez.

Petitioner ALEJANDRIA N. BENITEZ is hereby appointed ADMINISTRATOR of the estate of her deceased husband, Romeo F. Benitez.

Let Letters of Administration issue upon petitioner's filing of a bond in the amount of One Hundred Thousand Pesos (P100,000.00), within ten (10) days from notice, conditioned as follows:

a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

b) To administer according to these rules, and if an executor according to the will of the testator, all goods, chattels, rights, credits and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

c) To render a true and just account of his administration to the court within one (1) year and at any other time when required by the court;

d) To perform all orders of the court by him to be performed.

SO ORDERED.<sup>[9]</sup>

The intestate court declared Alejandria, Analiza and Fritzie Joy as the only lawful heirs of Romeo and appointed Alejandria as the administrator of Romeo's estate.<sup>[10]</sup> Intestate proceedings were terminated by the execution of a Deed of Settlement of Estate with Waiver and Quitclaim wherein the children of Alejandria and Romeo granted Alejandria sole ownership over the subject parcels of land.<sup>[11]</sup>

Meanwhile, on October 22, 2007, Alejandria and Analiza filed a petition<sup>[12]</sup> for the issuance of new owner's duplicate copies of TCT Nos. T-27844 and T-26828 in the RTC of Laoag City, Branch 65 (cadastral court) docketed as CAD. Case No. 51 claiming that said documents were missing.<sup>[13]</sup> In a Decision<sup>[14]</sup> dated April 1, 2008, the cadastral court directed the issuance of new owner's duplicate copies of TCT Nos. T-27844 and T-26828, the dispositive portion of which reads:

WHEREFORE, the instant petition is hereby **granted**.

The Register of Deeds of Laoag City is hereby directed to issue another Owner's Copies of **T.C.T. Nos. T-27844 and T-26828** which shall have like faith and credit as the lost ones for all legal intents and purposes, upon payment of the required fees by the petitioners.

The lost owner's copies of Transfer Certificate of Title Nos. T-27844 and T-26828 are ordered cancelled and without legal effect whatsoever.

If the lost ones are found, the same must be surrendered to the Register of Deeds of Laoag City for cancellation.

**SO ORDERED.**<sup>[15]</sup> (Emphasis supplied)

On April 20, 2011, Sps. Constantino allegedly purchased the lots covered by TCT Nos. T-26828 and T-27844 from Ceazar Cu Benitez (Ceazar) who is the son of Romeo and Lolita Cu (Lolita), both deceased.<sup>[16]</sup> After the purchase of the subject lots, Sps. Constantino learned about the Decision dated April 1, 2008 of the

cadastral court.<sup>[17]</sup>

Sps. Constantino filed a petition for annulment of judgment<sup>[18]</sup> of the Decision of the cadastral court in the CADocketed as CA-G.R. SP No. 138997. Sps. Constantino averred that the *Affidavit of Loss*<sup>[19]</sup> executed by Alejandria and attached to her petition filed before the cadastral court, wherein she stated *inter alia* that she was in joint physical possession of the original owner's duplicate copies with the late Romeo, is a perjured document as the original owner's duplicate copies were not lost. Sps. Constantino claimed that these had always been under the exclusive custody and physical possession of Lolita, and were turned over to her son Ceazar on March 6, 2004 after Romeo executed a Deed of Quitclaim<sup>[20]</sup> over the subject lots in Ceazar's favor. These were subsequently delivered to Sps. Constantino when they bought from Ceazar the subject lots on April 20, 2011 for P2,000,000.00.<sup>[21]</sup>

Meanwhile, on February 8, 2013, Sps. Constantino filed a Motion for Intervention<sup>[22]</sup> in Spec. Proc. 4506-18 in the intestate court praying for the following: (1) that they be allowed to intervene; (2) that the attached motion to exclude lots covered under TCT Nos. T-36271, T-26828, and T-27844 as part of the intestate estate of Romeo be admitted; and (3) that the notice of lis pendens annotated therein be cancelled.<sup>[23]</sup>

### **Ruling of the Intestate Court in Spec. Proc. 4506-18**

In an Order<sup>[24]</sup> dated February 11, 2013, the intestate court denied Sps. Constantino's Motion for Intervention on the ground that Spec. Proc. No. 4506-18 had become final and immutable on December 8, 2010, as evidenced by a Certificate of Finality issued on August 14, 2014. The Motion for Intervention was filed outside the period provided in Section 2, Rule 19 of the Rules.<sup>[25]</sup>

Sps. Constantino sought reconsideration<sup>[26]</sup> but was denied in an Order dated March 12, 2013.<sup>[27]</sup>

On December 11, 2014, Alejandria asked for the issuance of a Writ of Possession<sup>[28]</sup> and demanded possession over the subject lots. Sps. Constantino opposed this and insisted that the Order of the cadastral court directing the issuance of new certificates of title in CAD. Case No. 51 is void for lack of jurisdiction.<sup>[29]</sup> Sps. Constantino prayed that, given the conflicting claims over the titles, the case should be litigated anew.<sup>[30]</sup>

On March 4, 2015, the intestate court issued an Order<sup>[31]</sup> granting Alejandria's motion and ordered the issuance of a writ of possession. Sps. Constantino and their daughter, Bernadette Liu, were directed to surrender possession of Lots 9398-B and 9400-C under the new titles TCT Nos. T-021-2013000655 and T-021-2013000656 to Alejandria or to any of her duly authorized representative.<sup>[32]</sup> Sps. Constantino filed a Motion for Reconsideration<sup>[33]</sup> which was denied in an Order<sup>[34]</sup> dated March 23, 2015. The writ of possession was fully executed and Alejandria is now in possession of the subject properties. Hence, Sps. Constantino filed a petition for

*certiorari* to the CA.<sup>[35]</sup>

## **Ruling of the Court of Appeals**

### ***On the petition for certiorari docketed as CA-G.R. SP No. 140213 assailing the Orders dated March 4, 2015 and March 23, 2015 of the intestate court.***

In a Decision<sup>[36]</sup> dated March 28, 2017, the CA dismissed the petition for *certiorari* of Sps. Constantino and affirmed the Orders of the intestate court dated March 4, 2015 and March 23, 2015.<sup>[37]</sup>

In affirming the Orders of the intestate court, the CA held that the arguments relied upon by Sps. Constantino are essentially matters of ownership and title that may no longer be resolved through a motion for intervention that was filed after the judgment had reached finality, in violation of Section 2, Rule 19 of the Rules.<sup>[38]</sup>

The CA held that Alejandria observed the jurisdictional requirement of publication, as evidenced by the affidavit of the publisher of Ilocos Times, a newspaper of general circulation in the province of Ilocos Norte.<sup>[39]</sup> Even though Sps. Constantino were not mentioned in the intestate proceedings of Romeo's estate, the CA explained that they eventually became parties to the case as a result of the publication of the notice of hearing.<sup>[40]</sup>

The CA also opined that filing a motion for intervention was the wrong remedy. For the CA, Sps. Constantino should have filed a petition for relief from judgment under Section 3, Rule 38 of the Rules within 60 days from learning of the judgment, final order, or other proceeding to be set aside, but not more than six months after such judgment or final order was entered, or such proceeding was taken.<sup>[41]</sup>

As regards Sps. Constantino's allegation that Alejandria committed perjury and misrepresentations, the CA ruled that these cannot be properly resolved through a *certiorari* which concerns itself with the review of errors arising from the exercise of jurisdiction or lack thereof, not factual errors of judgment.<sup>[42]</sup>

In a Resolution<sup>[43]</sup> dated July 27, 2017, the CA denied the Motion for Reconsideration of Sps. Constantino.<sup>[44]</sup>

Incidentally, while the petition for *certiorari* docketed as CA G.R. SP NO. 140213 was pending, the CA issued a Decision<sup>[45]</sup> dated August 22, 2016 in CA-G.R. SP No. 138997 granting Sps. Constantino's petition for annulment of judgment of the cadastral court in CAD. Case No. 51. The new titles issued, TCT Nos. T-021-2013000655 and T-021-2013000656, were cancelled, and TCT Nos. T-26828 and T-27844 registered under the name of Romeo F. Benitez were reinstated.<sup>[46]</sup> The CA held that the original owner's duplicate copies of TCT Nos. T-26828 and T-27844 were not lost and are in fact in the possession of Sps. Constantino. On August 4, 2017, the CA issued an Entry of Judgment<sup>[47]</sup> declaring its Decision dated August 22, 2016 in CA-G.R. SP No. 138997 final and executory.<sup>[48]</sup>

In the present petition, Sps. Constantino insist that a motion for intervention was a

proper remedy to prevent from being dispossessed of the properties they claim they purchased. Sps. Constantino argue that the Deed of Quitclaim allegedly issued by Romeo is an admission on his part that he is a mere trustee of the properties in question and that he agreed to execute the document in favor of Ceazar when the latter becomes an adult.<sup>[49]</sup> Moreover, Sps. Constantino claim that the alleged intentional omission of Ceazar as coheir and an indispensable party in the petition for the settlement of Romeo's intestate estate renders the judgment of the intestate court in Spec. Proc. 4506-18 void.<sup>[50]</sup>

In Alejandria's Comment,<sup>[51]</sup> she suggests that the proper remedy should have been an action to annul a judgment based on fraud pursuant to Rule 47 of the Rules but which action had already prescribed. Alejandria asserts that an intestate estate proceeding is an action *in rem*. Thus, any decision or order rendered binds the whole world, including Ceazar.<sup>[52]</sup>

In their Reply,<sup>[53]</sup> Sps. Constantino maintain that the cancellation of the certificates of title in the name of Alejandria in CA-G.R. SP No. 138997 settled the ownership over the subject lots in their favor.<sup>[54]</sup>

### **Issue**

The issue to be resolved in this case is whether the motion for intervention Sps. Constantino filed in the intestate court should be given due course, despite having been filed after judgment had been rendered, on account of the reinstatement of TCT Nos. T-26828 and T-27844 in CA-G.R. SP No. 138997 and the fact that these had been sold to Sps. Constantino.

### **Ruling of the Court**

**The Orders dated March 4, 2015 and March 23, 2015 of the intestate court in Spec. Proc. 4506-18 are void.**

At the outset, it must be pointed out that neither of the parties assailed the jurisdiction of the intestate court in issuing a writ of possession in favor of Alejandria in its Orders dated March 4, 2015 and March 23, 2015. However, Section 8, Rule 51 of the Rules provides:

Section 8. Questions that may be decided. No errors which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.