838 Phil. 461

FIRST DIVISION

[G.R. No. 216756, August 08, 2018]

GENOVEVA P. TAN, DECEASED, SUBSTITUTED BY MELCHOR P. TAN AS THE LEGAL REPRESENTATIVE OF THE DECEASED PETITIONER, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE BUREAU OF CUSTOMS, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

Assailed in this Petition for Review[1] on *Certiorari* are the July 29, 2013 Decision[2] and February 5, 2015 Resolution[3] of the Court of Appeals (CA) which granted the Petition for *Certiorari* in CA-G.R. SP No. 118442 and denied herein petitioner's Motion for Reconsideration, respectively.

In 2002, the herein respondent, through the Bureau of Customs, filed an Amended Complaint[4] for collection of sum of money with damages and prayer for injunctive writ against Mannequin International Corporation (Mannequin) before the Regional Trial Court (RTC) of Manila, on the cause of action that Mannequin paid its 1995-1997 duties and taxes using spurious Tax Credit Certificates (TCCs) amounting to P55,664,027.00. The case was docketed as Civil Case No. 02-102639 and assigned to Branch 8 of the Manila RTC. The original complaint was amended to include other individuals - among them herein petitioner Genoveva P. Tan (Genoveva) - as one of the defendants.

After the respondent rested its case, petitioner filed a demurrer to evidence followed by an urgent manifestation with leave of court to allow her to change the caption of her demurrer to that of a motion to exclude and drop her from the case and/or dismiss the same as against her.

The Manila RTC granted petitioner's urgent manifestation and treated her demurrer as a motion to exclude/drop her from the case.

Subsequently, in a July 1, 2010 Order, the trial court resolved to grant petitioner's motion to exclude, thus:

> WHEREFORE, Motion to Exclude is GRAN1ED. Defendant Genoveva Tan is hereby EXCLUDED/ DROPPED as one of the defendants in this case. The Writ of Preliminary Injunction issued by this Court on September 11, 2002 is hereby LIFTED/CANCELLED ONLY WITH RESPECT TO the properties of Genoveva Tan.
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> SO ORDERED.[5]

Respondent moved to reconsider, but was rebuffed.

Ruling of the Court of Appeals

Respondent thus filed an original Petition for *Certiorari* with the CA, docketed as CA-G.R. SP No. 118442, on the contention that the Manila RTC committed grave abuse of discretion in granting petitioner's motion to exclude/drop her from the case.

In a March 30, 2011 Resolution,[6] the CA dismissed the petition for being tardy and for failing to attach thereto relevant documents and pleadings. But, on motion for reconsideration, the petition was reinstated. Petitioner took no action to question the reinstatement.

On July 29, 2013, the CA issued the assailed Decision granting respondent's Petition for *Certiorari*, ruling as follows:

> As gleaned from the records, petitioner[7] accuses the public respondent judge of gravely abusing his discretion by allowing private respondent Genoveva to present evidence in support of her Demurrer to Evidence and to formally offer her exhibits, contrary to the provision of Section 1, Rule 33 of the Rules of Court. Petitioner also argues that the move of x x x Genoveva to amend the caption of her Demurrer to Evidence into a Motion to Exclude was merely a legal maneuver to avoid the consequence of a possible denial of her demurrer.
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> On another issue, petitioner posits that assuming, for the sake of argument, that what x x x Genoveva filed was a Motion to Exclude and not a Demurrer to Evidence, it was still gravely erroneous x x x for the public respondent to grant the Motion to Exclude since the same should have been filed before the filing of an Answer and not at that late stage of the proceedings. Furthermore, petitioner posits that the grant of the Motion to Exclude is devoid of factual and legal basis.
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> Insofar as the public respondent's decision to treat x x x Genoveva's Motion as a Motion to Exclude, We are of the considered view that no grave abuse of discretion may be imputed against the public respondent It is already settled that it is not the caption but the allegations that are controlling. Furthermore, it is evident from the records that x x x Genoveva was able to amend her motion before the public respondent could have resolved the same.
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> We also dismiss petitioner's contention that the Motion to Exclude was no longer appropriate at the late stage of the proceedings since it is categorically provided under Section 11, Rule 3 of the 1997 Rules of Civil Procedure, that a misjoined party may be dropped by the court at any stage of the proceedings and such act does not even require a motion from any party since it may be done by the court on its motion x x x
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> x x x x
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> All these notwithstanding, We hold that the public respondent gravely abused his discretion in granting x x x Genoveva's Motion to Exclude.

As may be seen from the records, petitioner, in its effort to prove x x x Genoveva's liability, even employed as its own witness, Lourdes Briones Bhandari, a co defendant of x x x Genoveva, who then testified in court that x x x Genoveva was supposedly the principal orchestrator of the fraudulent activies that gave rise to this suit. Despite this, however, the court a quo granted x x x Genoveva's Motion to Exclude mainly, if not solely, on the basis of the latter's argument that she was no longer part of private respondent Mannequin at the time the supposed fraudulent transactions occurred, as supposedly established by the pieces of evidence submitted by x x x Genoveva. Since these pieces of evidence are in the custody of the Securities and Exchange Commission, the public respondent accorded them full faith and credence in line with the principle of regularity of public documents.

There should be no dispute that a public document enjoys the presumption of regularity. It is a *prima facie* evidence of the truth of the facts stated therein and a conclusive presumption of its existence and due execution. It must be stressed, however, that this is not an absolute and inflexible rule since the presumption in favor of public documents is merely disputable and is satisfactory only if uncontradicted, and may be overcome by other evidence to the contrary.

In this case, the Director's Certificate attached to the Amended Articles of Incorporation of x x x Mannequin shows that x x x Genoveva signed the same in her capacity as member of the board of directors of said corporation. Said Director's Certificate indicates that it was executed by x x x Genoveva, along with the other members of the board, on 01 April 1992 x x x

x x x x

This document alone already casts serious doubt as to the truth of x x x Genoveva's claim that she was no longer part of the corporation as early as September 1991.

In addition to the foregoing, a perusal of the Assignment of Shares reveals that x x x Genoveva purportedly assigned her shares to a certain Edgardo C. Olandez. Interestingly, there was nothing in said document to determine as to when exactly said shares were assigned, except that it was purportedly notarized on 24 September 1991. Notably, though, the board of directors of private respondents had already convened as early as 16 September 1991 for the purpose of approving and authorizing the transfer of x x x Genoveva's shares to x x x Olandez. Obviously, it is a highly questionable circumstance that the board of directors would already approve an act that has not yet even been performed.

It also comes as highly questionable that a change in the composition of the board of directors which unfolded as far back as 1991 would not have been immediately reported by x x x Mannequin to the Securities and Exchange Commission. As the records show, it was only in February 1995 that x x x Mannequin reported the transfers of shares made by its

directors. It all becomes more dubious when such report coincided with the release of the first two (2) Tax Credit Certificates in favor of x x x Mannequin amounting to x x x (Php7,120,032.00).

All the foregoing factual findings convince Us that petitioner was able to successfully overcome the presumption of regularity accorded to the documents submitted by x x x Genoveva. To be sure, with all the nagging questions that are left unanswered, it becomes difficult to give credence to x x x Genoveva's claim that she was already divested of her shares from x x x Mannequin when the pieces of evidence she relies on to prove the truth of her allegation contradict her claim. Of course, this is not to say that petitioner's victory is a cinch. It only means that although the pieces of evidence submitted by x x x Genoveva are public documents, the presumption in their favor had been severely diminished, if not totally shattered.

Petitioner has shown basis to implead x x x Genoveva and it now behooves x x x Genoveva to satisfactorily explain and reconcile the discrepancies that were uncovered in court by the prosecution to prove that she was, indeed, no longer part of x x x Mannequin, in whatever capacity, from 1995 and beyond. Accordingly, it was gravely erroneous to have her excluded in the proceedings below.

So much has been essayed about the trial court's plenary control over the proceedings before it. It should not be forgotten, however, that the discretion conferred upon the courts is not a willful, arbitrary, capricious and uncontrolled discretion. It is a sound, judicial discretion which should always be exercised with due regard to the rights of the parties and the demands of equity and justice.

In the instant case, the recovery of a huge amount of money that was fraudulently taken from the coffers of the government is at stake. However, it is already established that x x x Mannequin had long ceased its operation and is no longer in existence. Petitioner has also been adamant in stressing that all the other defendants are already outside the country, seemingly without intention to return. What is more, these other defendants, who are x x x Genoveva's descendants, even went as far as waiving, during the pendency of the case, their respective rights in all their properties in the Philippines in favor of x x x Genoveva. Given all these facts, it is starkly clear that petitioner is only left with x x x Genoveva for the full satisfaction of its claim.

It goes without saying then that x x x Genoveva's exclusion would virtually render the entire proceedings a futile recourse as far as the petitioner is concerned. **Verily, even if petitioner Republic of the Philippines wins this case, the government will end up with a pyrrhic victory as it cannot recover even a single centavo from the other defendants. On the other hand, it would be the height of injustice, and surely unacceptable, that those who were responsible for this grand fraud and benefited therefrom would laugh their way to the bank and enjoy their loot with impunity.** It was, thus, essential for the public respondent to exercise extreme

caution in dealing with x x x Genoveva's Motion to Exclude. In the end, though, the public respondent chose to mechanically and blindly adhere to the presumption of regularity of public documents without due regard and consideration to the palpable inconsistencies that those public documents, themselves, reveal. There was obviously a failure to exercise sound, judicial discretion on the part of the public respondent in this respect.

WHEREFORE, premises considered, the instant Petition for *Certiorari* is **GRANTED** and the assailed Orders dated 29 October 2010 and 01 July 2010 both issued by public respondent are **ANNULLED AND SET ASIDE**.

Accordingly, the Motion to Exclude Genoveva P. Tan as One Among the Defendants filed by private respondent Genoveva P. Tan is **DENIED** and the Writ of Preliminary Attachment issued by the court a quo dated 11 September 2002 is **REINSTATED** with respect to the properties of said private respondent.

The public respondent Judge is directed to proceed with, and dispose of, the case with utmost dispatch.

SO ORDERED.[8] (Emphasis in the original)

Petitioner filed a Motion for Reconsideration, but the CA denied the same as well, ruling as follows:

On 29 July 2013, the Court issued a Decision granting the Petition filed by the petitioner Republic of the Philippines by annulling and setting aside the assailed Orders dated 29 October 2010 and 01 July 2010 issued by the court *a quo*.

Thereafter, x x x Genoveva x x x, through Atty. Rizalino T. Simbillo, filed a Very Urgent and Vital Motion and Manifestation with Prayer to Defer Proceedings with Leave of Court, praying that x x x Genoveva be allowed to be represented by the aforesaid counsel in filing a Motion for Reconsideration and for this Court to toll the running of period to file said Motion in the meantime. As an alternative prayer, x x x Genoveva prays for this Court to rule for the outright dismissal of this case, even without a motion for reconsideration x x x.

In the ensuing events, Atty. Simbillo filed a Formal Entry of Appearance on 05 September 2013 while x x x Genoveva, through said counsel, filed a Motion for Reconsideration, seeking reconsideration of Our Decision. Meanwhile, Atty. Carmelita Reyes-Eleazar, the counsel for x x x Genoveva as appearing on the records before Us, submitted her Motion to Withdraw dated August 27, 2013.

As per said Motion for Reconsideration, Atty. Simbillo claims to be the exclusive counsel of record of x x x Genoveva in the proceedings below but he was supposedly left in the dark as to the existence of the Petition before Us. Allegedly, he was neither notified of the Petition nor was he