

## SECOND DIVISION

[ G.R. No. 186589, July 18, 2014 ]

**RICARDO C. SILVERIO, SR. AND LORNA CILLAN-SILVERIO,  
PETITIONERS, VS. RICARDO S. SILVERIO, JR., RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

A hearing is required in order to resolve a charge of indirect contempt; the respondent to the charge may not be convicted on the basis of written pleadings alone.

This Petition for Review on *Certiorari*<sup>[1]</sup> seeks to set aside the February 25, 2009 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 104060, entitled "*Ricardo C. Silverio, Sr. and Lorna Cillan-Silverio, Petitioners, versus Ricardo S. Silverio, Jr., Respondent.*"

#### ***Factual Antecedents***

In an October 31, 2006 Omnibus Order<sup>[3]</sup> issued by Branch 57 of the Regional Trial Court of Makati in Spec. Proc. M-2629 entitled "*In re: Intestate Estate of the Late Beatriz S. Silverio, Ricardo C. Silverio, Sr., Petitioner, versus Ricardo S. Silverio, Jr., Heir-Administrator Designate, Edmundo S. Silverio, Heir-Movant, and Ligaya S. Silverio, represented by her Legal Guardian Nestor Dela Merced II, Heir-Intervenor,*" it was decreed as follows:

WHEREFORE, above premises considered, this Court for the foregoing reasons resolves to grant the following:

- (1) Partially reconsidering Nos. 1 and 5 of its Order dated December 12, 2005, thus upholding the granting of Letters of Administration to Ricardo S. Silverio, Jr. anent the Estate of Beatriz S. Silverio in lieu of Ricardo C. Silverio, Sr., who is removed as Administrator for gross violation of his duties and functions under Section 1, Rule 81 of the Rules of Court;
- (2) Allowing Ricardo S. Silverio, Jr. to immediately take his oath as Administrator and exercise his duties and functions under his Administrator's Bond Utassco No. JCL(1)-001-1001, if still valid, or upon posting a new Administrator's Bond of PHP1,000,000.00;
- (3) Allowing the sale of the properties located at (1) No. 82 Cambridge Circle, Forbes Park, Makati City, covered by T.C.T. No. 137155 issued by Register of Deeds of Makati City; (2) No. 3 Intsia Road, Forbes Park, Makati City covered by T.C.T. No. 137154 issued by the Register of Deeds

of Makati City; and (3) No. 19 Taurus St., Bel-Air Subd., Makati City covered by TCT No. 137156 issued by the Register of Deeds of Makati City to partially settle the intestate estate of the late Beatriz S. Silverio, and authorizing the Administrator to undertake the proper procedure of transferring the titles involved to the name of the estate; and

(4) To apply the proceeds of the sale mentioned in Number 3 above to the payment of the taxes, interests, penalties and other charges, if any, and to distribute the residue among the heirs Ricardo [C.] Silverio, Sr., Ricardo S. Silverio, Jr., Ligaya S. Silverio represented by Legal Guardian Nestor S. Dela Merced II, Edmundo S. Silverio and Nelia S. Silverio-Dee in accordance with the law on intestacy.

SO ORDERED.<sup>[4]</sup>

Petitioner Ricardo C. Silverio, Sr. (Ricardo Sr.) is the surviving spouse of the decedent Beatriz S. Silverio, with whom he has children: herein respondent Ricardo Jr. (Ricardo Jr.); Edmundo; Ligaya; and Nelia Silverio-Dee (Nelia). Lorna Cillan-Silverio (Lorna) is Ricardo Sr.'s second wife. The subject matter of Spec. Proc. M-2629 is the decedent's intestate estate (the estate), which includes, among others, shares of stock in Pilipinas Development Corporation (PDC) and a residential house in Urdaneta Village (house at Urdaneta Village).

Nelia filed a Petition for *Certiorari* with the CA – docketed as CA-G.R. SP No. 97196<sup>[5]</sup> – questioning the trial court's October 31, 2006 Omnibus Order, particularly Ricardo Jr.'s appointment as the new administrator. The CA later issued two Resolutions, which granted Nelia's application for a writ of preliminary injunction, to wit:

1. A July 4, 2007 Resolution,<sup>[6]</sup> with the following decretal portion:

WHEREFORE, premises considered, the Private Respondents' motion(s) for the reconsideration of Our February 5, 2007 Resolution are DENIED. The Petitioner's application for a writ of injunction is hereby GRANTED.

Accordingly, let a Writ of Preliminary Injunction issue upon posting of the bond in the amount of two million pesos (PhP2,000,000.00) enjoining the Respondents from enforcing the October 31, 2006 *Omnibus Order* issued in Sp. Proc. M-2629; and, allowing Ricardo [C.] Silverio, Sr. to continue as administrator, pending resolution of the instant petition.

It appearing that the required pleadings have already been filed and no other pleading may be forthcoming per the Judicial Records Division's verification report of June 19, 2007, the main petition may be considered submitted for resolution.

SO ORDERED.<sup>[7]</sup>

2. A February 29, 2008 Resolution,<sup>[8]</sup> which decreed:

WHEREFORE, the ten million[-]peso (Php10,000,000.00) bond posted by the Petitioner under PSIC Bond No. JCL (8) 00207102119 is APPROVED. Accordingly, by this WRIT OF PRELIMINARY INJUNCTION, the Respondents, their agents or anybody acting in their behalf, are ENJOINED from executing, enforcing or implementing any writ of execution, order, or resolution for the enforcement of the October 31, 2006 *Omnibus Order* issued by the Respondent Court in Sp. Proc. M-2629 thereby allowing Ricardo [C.] Silverio, Sr. to continue as administrator during the pendency of this case.

The Petitioner's motion seeking the reconsideration of Our January 3, 2008 Resolution increasing the amount of the bond from two (2) million to ten (10) million pesos, having been rendered moot and academic by her subsequent submission of a bond in the increased amount, is DENIED.

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

On September 3, 2007, Ricardo Jr. filed with this Court an "Appeal under Rule 45 and/or *Certiorari* under Sec. 1, Rule 65" with a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, docketed as G.R. No. 178676,<sup>[10]</sup> seeking among others a reversal of the CA's July 4, 2007 Resolution and the issuance of injunctive relief. Respondent contended therein that the CA acted with grave abuse of discretion in issuing the July 4, 2007 Resolution and in granting injunctive relief against him.

On June 13, 2008, Ricardo Jr. wrote and sent two letters, one each to petitioners. Ricardo Jr. demanded in the first letter that Ricardo Sr. cease and desist from 1) exercising the rights of a stockholder in PDC; 2) managing PDC's affairs and business; and 3) transacting with third persons for and in behalf of PDC and to turn over all of its books and records. In the second letter, Ricardo Jr. demanded that Lorna immediately vacate the house at Urdaneta Village.<sup>[11]</sup>

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

On June 25, 2008, petitioners filed with the CA a Petition for Indirect Contempt,<sup>[12]</sup> docketed as CA-G.R. SP No. 104060, seeking that herein respondent Ricardo Jr. be declared in indirect contempt of court and punished accordingly. They charged that respondent's June 13, 2008 demand letters violate and defy the CA's July 4, 2007 and February 29, 2008 Resolutions in CA-G.R. SP No. 97196, which enjoined respondent's appointment as administrator pursuant to the October 31, 2006 Omnibus Order; allowed petitioner Ricardo Sr. to continue as administrator of the estate; and enjoined Ricardo Jr. and his co-respondents in Spec. Proc. M-2629 from executing, enforcing or implementing any writ of execution, order, or resolution for the enforcement of the Omnibus Order. Petitioners likewise charged that –

14. [Last] June 20, 2008 at about 2:00 in the afternoon, respondent Silverio Jr., accompanied by his two lawyers: Attys. Efren Vincent M. Dizon and Charlie Mendoza and some John Does, without the benefit of a final court order or writ of execution and without the assistance of a sheriff, attempted to enforce the Decision of the Regional Trial Court of Makati City, Branch 145 which was appealed to the Court of Appeals by way of Notice of Appeal, by trying to forcibly evict against their will, the occupants of one of the residence(s) of his petitioner father Silverio Sr. at #21 Cruzada, Urdaneta Village, Makati City, covered by the Testate Intestate Case appealed to this Honorable Court which issued the aforementioned injunction. In the process, respondent Silverio Jr. created quite a commotion and public disturbance inside the subdivision. Only [with] the timely intervention of the officers of the homeowners association, barangay officials, some policemen and this representation was respondent Silverio Jr. prevailed upon to peacefully leave the place.

15. Such acts of respondent Ricardo S. Silverio, Jr. in trying to eject his father from his residence without the benefit of a final court order/writ of execution, [are] not only x x x illegal and show disrespect for elders, but also smack a lot of bad taste in contravention [of] our established customs and tradition[s].<sup>[13]</sup>

Petitioners argued further that PDC and the house at Urdaneta Village are assets of the estate placed under Ricardo Sr.'s charge as administrator through the July 4, 2007 and February 29, 2008 Resolutions, which characterize respondent's acts as undue interference with Ricardo Sr.'s administratorship; moreover, respondent's acts contravene Philippine customs and traditions. Thus, respondent's acts constitute indirect contempt as defined and punished under Rule 71, Section 3 of the 1997 Rules of Civil Procedure<sup>[14]</sup> (1997 Rules).

On February 25, 2009, the CA issued the assailed Decision, which held thus –

After a careful evaluation of the evidentiary records, this Court finds it inappropriate to make a ruling on whether or not the Respondent has committed certain acts, *supra.*, violative of Revised Rule 71 of the Rules.

Records show that on 3 September 2007, the Respondent has interposed an appeal from the CA Resolution dated 4 July 2007, *supra.*, before the Supreme Court questioning in essence said resolution as having been granted to the Petitioners with grave abuse of discretion amounting to lack or in excess of jurisdiction, hence, allegedly null and void.

Accordingly, in the light of the foregoing development, this Court is compelled to restrain itself from resolving the issues in the instant petition. Otherwise put, it is imperative that We instantly pull the plug and let the High Tribunal settle the controversy surrounding the propriety in the issuance of CA Resolution dated 4 July 2007, *supra.*, from which order the Respondent has allegedly committed acts in defiance thereof.