

THIRD DIVISION

[G.R. No. 134787, November 15, 2005]

**NICANOR T. SANTOS, PETITIONER, VS. COURT OF APPEALS,
CONSUELO T. SANTOS-GUERRERO AND ANDRES GUERRERO,
RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

Jurisprudence is replete with cases of close family ties sadly torn apart by disputes over inheritance. This is one of them and, for sure, will not be the last.

In this petition for review on *certiorari* under Rule 45 of the Rules of Court, petitioner **Nicanor T. Santos** assails and seeks to set aside the Decision dated March 24, 1998^[1] of the Court of Appeals (CA) in **C.A. G.R. CV No. 50060** dismissing his appeal from the amended decision dated July 27, 1995 of the Regional Trial Court of Malabon-Navotas in Civil Case No. 1784-MN, an action for revival of judgment.

The facts:

Petitioner Nicanor T. Santos and private respondent **Consuelo T. Santos-Guerrero** are brother and sister, born to spouses Urbano Santos and Candelaria Santos, now both deceased. Sometime in 1956, Nicanor, Consuelo and eight of their siblings, executed a "*Basic Agreement of Partition*" covering properties they inherited from their parents.

Two years later, Consuelo, joined by her husband, herein respondent **Andres Guerrero** (collectively, the "Guerreros"), filed suit with the then Court of First Instance (CFI) of Rizal against petitioner Nicanor and two (2) other brothers, for recovery of inheritance. Docketed as **Civil Case No. 4871** and raffled to Branch VI of the court, the complaint, *inter alia*, sought to have the aforementioned 1956 Agreement of Partition judicially declared valid.

Pending resolution of Civil Case No. 4871, the following events transpired:

1. The Santos heirs executed on May 5, 1959 another document, denominated "Deed of Partition (With More Corrections)". In it, the properties allotted to the heirs belonging to "Group 4", to which Consuelo and Nicanor belonged, were divided into four (4) shares. Share No. 3 was adjudicated to Nicanor who, however, was obligated to pay Consuelo the amount of P31,825.00.
2. Spouses Guerreros filed another complaint against petitioner Nicanor, docketed as Civil Case No. 5858 of CFI-Rizal, for the recovery of her (Consuelo's) share under the May 5, 1959 Deed of Partition.

Civil Case No. 4871 and Civil Case No. 5858 would subsequently be consolidated before the CFI-Rizal, Branch 11, presided, according to petitioner, by Judge Andres Reyes. On November 27, 1960, Judge Reyes rendered a decision (Exh."5"), disposing as follows:

IN VIEW OF THE FOREGOING, the Court hereby renders judgment, ordering the defendant [herein petitioner] to comply with his part of the Deed of Partition and deliver to the plaintiff [respondent Consuelo] the amount of P26,650.00 without prejudice to the right of reimbursement under the same deed. No pronouncement as to costs.

SO ORDERED. (Words in bracket supplied)^[2]

Subsequently, the Guerreros instituted another complaint against Nicanor with the CFI at Pasig for recovery of sums of money under the May 5, 1959 Deed of Partition. For some reason unclear from the records and which the parties have not explained, the case was also assigned docket number **Civil Case No. 5858**. It was raffled to Branch VI of the court, presided by Judge Eutropio Migriño.^[3] Thereat, Nicanor, as defendant *a quo*, filed a third party complaint against brothers Ernesto *et al.* And albeit not touched upon in the basic pleadings, the issue of whether Nicanor was obligated to pay Consuelo the amount of P31,825.00, as stated in the 1959 deed of partition, or the amount of P26,650.00, as decreed in **Exhibit "5"**, was raised in the parties' respective memoranda.^[4] In fact, during the hearing of this particular case, the Guerreros filed a "*Manifestation and Motion*", stating as follows:

1. That they agree to submit this case . . . on the basis of the total amount of P34, 825.00 due to the plaintiff, Consuelo T. Santos-Guerrero, minus P8,175.00 due to Group 8, or a net balance of P26,650.00 in favor of the plaintiff
2. xxx
3. That they finally agree that the total net balance of P26,650.00 plus the interest thereon and attorney's fees in the amount which this Honorable Court will determine, shall be paid by the defendant-third party plaintiff Nicanor T. Santos and all of the third-party defendants

WHEREFORE, it is respectfully prayed . . . that judgment be rendered in the above-entitled case in accordance with the foregoing terms and conditions.

Eventually, on December 28, 1979, Judge Migriño rendered judgment (**Exh. "A"**) ordering Nicanor, as defendant *a quo*, to pay Consuelo P31,825.00, representing the amount due her under the May 5, 1959 deed of partition, plus damages and attorney's fees.^[5]

In time, Nicanor went to the Intermediate Appellate Court (IAC), now CA, where his appellate recourse was docketed as **CA-G.R. No. 69008-CV**. In a Decision dated October 21, 1985, the IAC affirmed the December 28, 1979 CFI decision of Judge Migriño, but reduced the award of moral damages. Nicanor's petition for review of the IAC decision would subsequently be denied by this Court per its Resolution

dated **February 19, 1986 in G.R. No. L-73121.**^[6] Following the issuance by the Court of an Entry of Judgment on April 1, 1986,^[7] the records were subsequently remanded to the trial court. For some reason, however, the Guerreros did not pursue execution of the judgment.

A little over six (6) years later, or on June 3, 1992, to be precise, the Guerreros filed a complaint for revival of the December 28, 1979 decision of Judge Migriño (Exh. "A"), docketed as Civil Case No. 1784-MN of the Regional Trial Court (RTC) of Malabon-Navotas. Petitioner Nicanor, as defendant, countered with a motion to dismiss on several grounds, among which were: (a) that the complaint for revival of judgment is barred under the *res judicata* rule; and (b) that the suit is between members of the same family and no earnest efforts towards an amicable settlement have been made.

After due proceedings, the RTC of Malabon-Navotas dismissed the complaint for revival of judgment. However, on motion for reconsideration and following a new trial, the trial court reversed itself and, accordingly, rendered on July 27, 1995 an amended decision, the *fallo* of which reads:

WHEREFORE, judgment is hereby rendered reviving the Decision dated December 28, 1979 in Civil Case No. 5858 and correspondingly, [petitioner] is hereby ordered to pay [private respondents] as follows.

- a) THIRTY ONE THOUSAND EIGHT HUNDRED TWENTY FIVE PESOS (P31,825.00) representing the amount due from him to her under their deed of partition of May 5, 1959;
- b) TWENTY FIVE THOUSAND PESOS (P25,000.00) by way of unrealized profits;
- c) FIVE THOUSAND PESOS (P5,000.00) by way of moral damages; and
- d) FIVE THOUSAND PESOS (P5,000.00) by way of attorney's fees, all which sums shall be with interest at the rate of six percent (6%) from October 30, 1959 when the complaint was filed, up to and including July 28, 1974 and at the rate of twelve percent (12%) from July 29, 1974 until fully paid.

SO ORDERED. (Words in bracket added)

Therefrom, Nicanor went on appeal to the CA whereat his recourse was docketed as **CA G.R. CV No. 50060**. On March 24, 1998, the appellate court rendered the herein assailed Decision dismissing the appeal.^[8] A Resolution of July 24, 1998 denying Nicanor's motion for reconsideration followed.^[9]

Hence, this instant petition for review,^[10] petitioner ascribing to the Court of Appeals the commission of the following "serious" errors, *viz*:

1. In holding that Article 222 of the New Civil Code in relation to Section 1(j), Rule 16 of the Rules of Court has no application, and if there is, the subsequent act of herein petitioner already achieved