

THIRD DIVISION

[G.R. No. 148597, October 24, 2003]

GRACE F. MUNSAYAC-DE VILLA, LILY F. MUNSAYAC-SUNGA AND ROY MUNSAYAC, PETITIONERS, VS. COURT OF APPEALS; JUDGE ANTONIO C. REYES, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF BAGUIO CITY, BRANCH 61; NORA F. MUNSAYAC-VISPERAS (REPRESENTED BY HER HEIRS); AND GELACIO F. MUNSAYAC JR., RESPONDENTS.

DECISION

PANGANIBAN, J.:

Once a case has been decided with finality, a petition for the inhibition of the judge therefrom becomes moot and academic.

The Case

Before us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the March 2, 2001 Decision^[2] and the June 21, 2001 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 60914. The decretal portion of the Decision reads as follows:

"WHEREFORE, premises considered, the present petition for certiorari and prohibition is hereby GRANTED **only insofar as nullifying and setting aside the order of arrest** contained in Respondent Judge Antonio C. Reyes' Orders dated June 22, 2000 and August 28, 2000 in Special Proceedings 704-R, entitled '*In the Matter of the Intestate Estate of the Late Gelacio Munsayac, Sr. and the Late Vicenta Munsayac.*'

"No pronouncement as to costs."^[4]

The assailed Resolution denied both petitioners' Partial Motion for Reconsideration^[5] and private respondents' Motion for Reconsideration.^[6]

The Facts

The facts of the case were summarized by the CA in this wise:

"A recapitulation of facts shows that the present controversy before [u]s stems from Special Proceeding Case No. 704-R, entitled '*In the Matter of the Intestate Estate of the Late Gelacio Munsayac, Sr. and the Late Vicenta Munsayac*' and pending before Branch 61 of the Regional Trial Court of Baguio City. The said special proceeding case was filed on November 17, 1998 by Grace F. Munsayac-De Villa ('DE VILLA'), Lily F. Munsayac-Sunga ('SUNGA') and Roy Peter F. Munsayac ('ROY') - three

(3) of the five (5) children of the late Spouses GELACIO and VICENTA MUNSAYAC - for letters of administration nominating DE VILLA as administratrix of the intestate estate of their parents. DE VILLA's nomination was opposed by the two (2) other children of the late Munsayac Spouses, namely, Gelacio F. Munsayac, Jr. (`MUNSAYAC, JR.') and the late Nora F. Munsayac-Visperas (`VISPERAS'), who nominated MUNSAYAC, JR. as administrator of the late Munsayac Couple's intestate estate.

"MUNSAYAC, JR. was eventually appointed administrator pursuant to respondent Judge's Order dated March 22, 2000, replacing Lawyer Ceasar G. Oracion as special administrator of the said intestate estate, pursuant to the Order dated April 27, 1998.

"Despite the approved 60-day suspension of the proceedings to enable the parties to discuss an amicable settlement, the protracted exchange of pleadings between the opposing siblings in Special Proceeding Case No. 704-R was of no help in the immediate settlement of the intestate estate of the late Munsayac Couple.

"Even the efforts of the petitioners to inhibit respondent Judge further complicated the intestate proceedings. Thus, there was the *Request for Inhibition* dated September 28, 1999, which was filed by DE VILLA and SUNGA. Barely a week after the aforesaid *Request for Inhibition* was filed and before respondent Judge could act on it, petitioners filed a *petition for certiorari, prohibition and mandamus* which was received by this Court on October 4, 1999, docketed as CA-G.R. SP NO. 55193 which has for its petitioners and respondents the same respective parties involved in the present petition before [u]s, and questions, among others, respondent Judge's Order in open court dated September 29, 1999 directing/ordering DE VILLA to produce by 2:00 p.m. in the afternoon of the same date certain bank time deposit certificates/documents; and the order of arrest of DE VILLA by about 4:00 p.m. in the afternoon of the same date, for failure to produce the said bank certificates/documents. Pending the resolution of CA-G.R. SP NO. 55193, petitioners filed an administrative case dated July 11, 2000 before the Supreme Court, docketed as OCA IPI NO. 00-989-RTJ, which not only prayed for respondent Judge's suspension but also his permanent removal from office on grounds of grave misconduct and serious inefficiency.

"Acting on the *Omnibus Motion* dated April 24, 2000 which was filed by the administrator of the intestate estate, respondent Judge issued the Order dated May 4, 2000, which underscored the order to surrender, under pain of contempt, (a) the amount of the bank investment discovered in the names of the late VICENTA, DE VILLA and SUNGA made with the United Coconut Planter's Bank, Baguio City (`UCPB') under Investment Confirmation No. 0666 worth P13,506,343.33, and which amount was not disclosed by the petitioners in the estate return tax, (b) as well as the surrender of all the pieces of jewelry given by the late VICENTA to DE VILLA and SUNGA, subject of the `freeze order' with the China Banking Corporation.

"The Court *a quo* substantially reiterated the import of the Order dated May 4, 2000, by issuing the Order dated May 24, 2000 and, on the account of petitioners' failure to faithfully comply therewith, issued the Order dated June 22, 2000, which contained the following decretal portion -

`WHEREFORE, for their failure to comply with the Order of this Court dated May 24, 2000, the petitioners Grace de Villa, Lily Sunga and Peter Roy Munsayac are hereby ordered ARRESTED in accordance with Section 8, Rule 71, of the 1997 Rules on Civil Procedure, until their compliance to immediately surrender in *custodia legis* to this Court for the Special Administrator the amount of P13,506,343.33 plus the legal interest of 12% per annum compounded annually, from May 1995 until fully complied with or a total amount of P23,802,788.00 more or less, as of May, 2000.

`The petitioners Grace de Villa, Lily Sunga and Peter Roy Munsayac are likewise ORDERED to surrender in *custodia legis* to this Court for the Special Administrator the amount of P15,298,835.95 and P3,010,822.02 plus the legal interest of 12% per annum compounded annually, from May 1995 until fully complied with or a total amount of P32,267,868.00, more or less, as of May 2000, within fifteen (15) days from receipt of this Order.

`SO ORDERED.'

and the Order dated August 28, 2000, the pertinent portion of which reads -

`The order for the petitioners to surrender the amounts stated in this Court's order dated June 22, 2000 shall stand and the order for the petitioners' arrest shall not be lifted until their full and faithful compliance with the order to place the said money in the legal custody of either the special administrator or this Court. The motion for reconsideration on the matter of petitioners' standing order of arrest is therefore DENIED.

`SO ORDERED.'

were issued by respondent Judge and are now both subject of this present petition x x x."^[7]

Ruling of the Court of Appeals

In nullifying the arrest order issued by Judge Reyes, the CA ruled that he had summarily ordered the arrest of petitioners without any written charge filed against them or any hearing conducted thereon. According to the appellate court, "there is nothing in Rule 71 which explicitly allows that the requirements of filing a written charge and hearing in indirect contempt cases may be dispensed with."^[8] It thus set aside the Order of Arrest issued by respondent judge.

Ruling on the request for inhibition filed by petitioners, the CA, however, held that there was no convincing proof that the demeanor of the trial judge had put him under suspicion, especially in the light of their clear display of contumacious behavior toward the court.^[9] It further held that their request for inhibition was unacceptable, because they had come to the court with "unclean hands."^[10]

Hence, this Petition.^[11]

The Issue

In their Memorandum,^[12] petitioners submit this sole issue for our consideration:

"With due respect, the Respondent Court of Appeals erred as a matter of law in not ordering the inhibition of the respondent presiding judge who, as shown in all his actuations and orders, [has] demonstrated vindictiveness, arbitrariness, prejudice and bias against petitioners and partiality in favor of private respondents thereby denying petitioners' fundamental right to be entitled to an impartial tribunal."^[13]

The Court's Ruling

The Petition for inhibition has no merit, but the trial judge must lift the freeze order and cause the return of property or money still in *custodia legis*.

Sole Issue: **Inhibition**

Before delving into the issue of inhibition, we note that the CA Decision nullified and set aside the Order of Arrest issued by Judge Reyes against petitioners. Consequently, the propriety of the Order was no longer raised in this Petition. Neither was it raised by respondents.

In a petition under Rule 45 of the Rules of Court -- as distinguished from an ordinary appeal of a criminal case in which the whole case is opened for review -- the appeal is limited to the errors assigned by petitioner.^[14] Since respondents did not contest the Decision of the CA, no affirmative relief can be sought by or given to them.^[15] Thus, not all the issues raised before the appellate court need to be considered by this Court. The sole issue in the present Petition is the question of inhibition of respondent judge.

We emphasize at the outset that the main case from which this Petition arose has already been decided by the CA. The Decision is now final and executory.^[16] Already terminated in that main case was Special Proceedings No. 704-R, which had given rise to a number of incidents and petitions including the herein matter. In CA-GR SP No. 64025, the CA found that Judge Reyes had gravely abused his discretion when he disallowed the Extrajudicial Partition^[17] executed by the heirs of the Munsayac spouses. Thus, the appellate court disposed as follows:

"WHEREFORE, premises considered, the instant special civil action is hereby **GRANTED**. Accordingly, the assailed Orders dated March 1, 2001 and March 21, 2001 are hereby **NULLIFIED and SET ASIDE**, and a new