

SECOND DIVISION

[G.R. No. 120176, July 20, 2001]

MA. VALENTINA SANTANA-CRUZ, IN HER CAPACITY AS THE ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE LATE FRANCISCO D. SANTANA, PETITIONER, VS. COURT OF APPEALS, PATROCINIA JUANSON-CUIZON, FELIPE RIPLE, ELISA MARILAO, JOSE POBLETE, FELIX POBLETE, FRANCISCO TOLENTINO, FLORENTINO TOLENTINO, HOSPICIO TOLENTINO, VIRGINIA TOLENTINO, MAXIMINA TOLENTINO, PACITA MARILAO, MARIA MARILAO, REYNALDO MARILAO, FRANCISCO MARILAO, JR., AND CRISANTA MARILAO, RESPONDENTS.

D E C I S I O N

DE LEON, JR., J.:

Before us is an appeal from the Resolutions^[1] of the Court of Appeals^[2] promulgated on February 9, 1995^[3] and April 21, 1995^[4] setting aside its Decision dated October 12, 1994, thereby holding that the private respondents' complaint for revival/execution of judgment has not prescribed, and thereafter denying petitioner's manifestation and motion for a special order praying for the recall and nullification of the Resolution dated February 9, 1995.

The facts are as follows:

On March 23, 1993, Attorney-in-Fact Patrocinia Juanson-Cuizon, representing private respondents Felipe Riple, Elisa Marilao, Jose Poblete, Felix Poblete, Francisco Tolentino, Florentino Tolentino, Hospicio Tolentino, Virginia Tolentino, Maximina Tolentino, Pacita Marilao, Maria Marilao, Reynaldo Marilao, Francisco Marilao, Jr. and Crisanta Marilao (the heirs of the late Valeriana Marilao), filed against petitioner and Ma. Paz S. Concepcion, a Complaint for Revival/Execution of Judgment After Lapse of Five Years with the Regional Trial Court, Fourth Judicial Region, Branch 74, Antipolo, Rizal.^[5]

The judgment sought to be revived/executed is the Decision dated September 30, 1964 of the then Court of First Instance of Rizal, Branch X, Pasig, Metro Manila, in Civil Case No. 6482, entitled "Felipe Riple, et al. vs. Francisco Santana, et al.," the dispositive portion of which reads:

WHEREFORE, in view of the foregoing findings of this Court, judgment is hereby rendered in favor of the plaintiffs and against the defendants Francisco Santana and the Heirs of Catalina Reyes, ordering the latter to reconvey in favor of the plaintiffs, as Heirs of Valeriana Marilao, Lots Nos. 2, 4, 6, 11 and 12 of plan Psd-1536-LRC and covered by Transfer Certificate of Title No. 65611 of the Register of Deeds of Rizal upon payment by the plaintiffs to the defendants the sum of P6,233.40; to

execute the necessary deed of reconveyance within five (5) days from receipt of the aforementioned sum; to pay the plaintiffs the amount of P1,000.00 as and for attorney's fees; and to pay the costs.^[6]

On December 5, 1979, the Court of Appeals affirmed the said Decision *in toto*.^[7]

On May 7, 1993, petitioner filed an Omnibus Motion^[8], praying that the Complaint be dismissed on the ground that it failed to state a cause of action, that it was barred by the statute of limitations, and that it be expunged from the records of the case for having been filed by a person not authorized to practice law.

On August 19, 1993, the court *a quo* issued an Order, the dispositive portion of which reads:

WHEREFORE, the Omnibus Motion is hereby denied. As prayed for by the petitioners, let an alias writ of execution be issued in this case to enforce the decision of the Court of First Instance of Rizal (now Regional Trial Court), which was subsequently affirmed in toto by the Court of Appeals.

SO ORDERED.^[9]

On September 1, 1993, the court *a quo* issued an Alias Writ of Execution^[10] which sought to implement the decision of the Court of Appeals referred to in the Order dated August 19, 1993.

On September 6, 1993, petitioner filed a Motion for Reconsideration with Motion to Quash Alias Writ of Execution,^[11] which was denied by the court *a quo* in an Order dated October 21, 1993.^[12]

Also on October 21, 1993, the court *a quo* issued an Order, thus:

Acting on the motion for modification of order dated September 6, 1993, filed by the petitioners thru their attorney-in-fact, and finding the reasons stated therein to be impressed with merit the same is hereby granted.

WHEREFORE, the order of the Court dated August 19, 1993 is modified and the Register of Deeds of Marikina, Metro Manila, is hereby ordered to cancel the Transfer Certificate of Title No. 65611 and all the resultant titles derived therein and in lieu thereof, the corresponding new transfer certificates of title be issued in the name of the petitioners.

SO ORDERED.^[13]

On November 19, 1993, petitioner filed a Petition for Certiorari and Prohibition with a Prayer for the Issuance of a Temporary Restraining Order^[14] with the Court of Appeals alleging that the court *a quo* acted with grave abuse of discretion in issuing the three (3) Orders dated August 19, 1993 and October 21, 1993.

On October 12, 1994, the Court of Appeals rendered judgment, the dispositive portion of which reads:

WHEREFORE, on the basis of the foregoing, the petition for certiorari and prohibition, etc. is GIVEN DUE COURSE. The three (3) questioned orders are REVERSED and SET ASIDE, the alias writ of execution dated September 1, 1993 is declared VOID and the Complaint for revival/execution of judgment (Civil Case No. 93-2636) is DISMISSED on the ground of prescription.

SO ORDERED.^[15]

On November 2, 1994, Atty. Julian S. Yap who filed his appearance as counsel for private respondents,^[16] also filed a Motion for Reconsideration,^[17] which, among others, stated that private respondents, some of whom have died and are succeeded by their heirs, had revoked the authority of their Attorney-in-Fact, Patrocinia J. Cuizon, to represent them. On November 15, 1994, the Court of Appeals received another Motion for Reconsideration^[18] filed by the counsel of record, Atty. Raul A. Mora, for private respondents.

On November 25, 1994, petitioner filed her Opposition^[19] stating among others, that she received two (2) motions for reconsideration of private respondents filed by different counsels, and that she was bound to treat Atty. Raul A. Mora as private respondents' counsel of record as she had not received any notice of proper substitution of private respondents' counsel.

On December 15, 1994, respondent Court of Appeals promulgated a Resolution, thus:

Private respondents' motion for reconsideration merely reiterates the same issues and arguments which We have extensively discussed and passed upon in Our decision.

WHEREFORE, the motion for reconsideration is denied.

SO ORDERED.^[20]

On December 16, 1994, the Court of Appeals received a Supplemental Motion for Reconsideration with Leave of Court^[21] filed for private respondents by Atty. Raul A. Mora and a Manifestation and Motion^[22] filed by Atty. Julian S. Yap. On December 22, 1994, respondent Court of Appeals promulgated a Resolution, thus:

Considering that private respondents' motion for reconsideration had been denied by the Court in its resolution of December 15, 1994, private respondents' supplemental motion for reconsideration and manifestation and motion both dated December 14, 1994 and received by the Court on December 16, 1994 are hereby NOTED without action.^[23]

On or about January 5, 1995, private respondents, through Atty. Julian S. Yap, filed with this Court a Petition for Extension of Time to File Petition for Review,^[24] which was docketed as G.R. No. 118341. In their petition for review filed on February 6, 1995, private respondents questioned the Decision dated October 12, 1994 and the Resolution dated December 15, 1994 of the Court of Appeals in CA-G.R. SP No. 32631. On March 1, 1995, this Court issued a Resolution^[25] denying private

respondents' petition on the ground that it failed to show that a reversible error had been committed by the appellate court. On or about April 8, 1995, private respondents filed a motion for reconsideration^[26] which was denied. On June 23, 1995, the Resolution dated March 1, 1995 became final and executory.

On or about January 4, 1995, private respondents, this time through Atty. Raul A. Mora, filed with this Court another Motion for Extension of Time to File Petition,^[27] which was docketed as G.R. No. 118360. On January 25, 1995, this Court issued a Resolution^[28] granting Atty. Mora an extension of thirty (30) days from the expiration of the reglementary period within which to file the petition with no further extension. However, there was a further request for more time to file a petition for review. On February 22, 1995, petitioner filed a Motion to Dismiss the Case.^[29]

Meantime, while G.R. Nos. 118341 and 118360 were pending before this Court, the Court of Appeals promulgated the Resolution in question on February 9, 1995, the dispositive portion of which reads:

WHEREFORE, premises considered, the motion for reconsideration filed by private respondents through Atty. Raul A. Mora is GRANTED and the decision promulgated on October 12, 1994 RECONSIDERED and SET ASIDE. New judgment is rendered DISMISSING the petition for lack of merit.

SO ORDERED.^[30]

In the aforementioned resolution, the Court of Appeals, clarified that its Resolution promulgated on December 15, 1994 was a denial of the private respondents' motion for reconsideration filed by Atty. Julian S. Yap, finding that the said motion merely reiterated the same issues and arguments already extensively discussed and passed upon in the decision sought to be reconsidered. It was, however, confronted again by another motion for reconsideration filed by private respondents, through their Attorney-in-Fact Patrocinia Juanson Cuizon, represented by Atty. Raul A. Mora; and the appellate court this time found cogent and compelling reason to reverse and set aside its Decision promulgated on October 12, 1994. The Court of Appeals held that the respondent judge, in the light of the ruling in the case of *National Power Corporation vs. Court of Appeals*,^[31] did not err in treating the complaint as a motion for execution and ordering the issuance of an alias writ of execution, and ruled that the delay of more than thirteen (13) years, from the time the decision in CA-G.R. No. 48321-R became final and executory on December 23, 1979, should not be counted in computing the 5-year period in executing a judgment by motion, since the delay was not private respondents' doing but petitioner's.^[32] Hence, the Court of Appeals set aside its Decision dated October 12, 1994 thereby holding that private respondent's complaint for revival/execution of judgment has not prescribed, and dismissed petitioner's petition for certiorari and prohibition.

On February 22, 1995, petitioner filed a Manifestation and Motion for Special Order^[33] questioning the jurisdiction of the Court of Appeals to issue the Resolution of February 9, 1995 as said resolution was issued after private respondents, through Atty. Mora, filed a motion for extension of time to file a petition for review on certiorari on or about January 6, 1995 with this Court, which is violative of Section 8, Rule 9 of the Revised Internal Rules of the Court of Appeals.

Subsequently, private respondents, through Atty. Raul A. Mora, filed with this Court in G.R. No. 118360 a Motion to Withdraw Present Action^[34] dated February 27, 1995 stating that the motion for extension of time to file petition for review on certiorari and the payment of docket fees were made under the mistaken impression that the Court of Appeal's Resolution dated December 15, 1994 had denied their motion for reconsideration, but which was clarified by the Court of Appeals in another resolution dated February 9, 1995 to be a denial of the motion for reconsideration filed only by Atty. Julian S. Yap, and that the motion for reconsideration filed through Atty. Raul A. Mora was granted. On April 3, 1995, this Court issued a Resolution, which among others, granted said motion to withdraw the petition in G.R. No. 118360, which resolution became final and executory on April 17, 1995.

On April 21, 1995, the Court of Appeals promulgated the assailed Resolution^[35] denying petitioner's manifestation and motion for a special order dated 21 February 1995, which questioned the Court's jurisdiction to issue the Resolution of February 9, 1995.

Hence, this petition raising the following issues:

I

RESPONDENT COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A MANNER THAT IS CONTRARY TO LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT, INVOLVING THE ABSENCE OF JURISDICTION OF THE COURT OF APPEALS OVER A CASE WHICH HAS BEEN ELEVATED TO THIS HONORABLE COURT ON PETITION FOR REVIEW ON CERTIORARI.

II

RESPONDENT COURT OF APPEALS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, BY ACTING ON A MOTION FOR RECONSIDERATION AFTER PRIVATE RESPONDENTS HAD ALREADY REQUESTED THIS HONORABLE COURT FOR ADDITIONAL TIME TO FILE PETITION FOR REVIEW ON CERTIORARI.^[36]

Petitioner contends that when private respondents through Atty. Mora filed on January 6, 1995 a motion for extension of time to file a petition for review with this Court, they had perfected their appeal to this Court; hence, respondent Court of Appeals lost jurisdiction over CA-G.R. SP No. 32631, including the jurisdiction to amend, alter or modify the Decision dated October 12, 1994 and the Resolution dated December 15, 1994; hence, the Resolutions dated February 9, 1995 and April 21, 1995 were issued by the Court of Appeals without jurisdiction. Moreover, Section 8, Rule 9 of the Revised Internal Rules of the Court of Appeals, provides:

Effect of Filing an Appeal in the Supreme Court.-- No motion for reconsideration or rehearing shall be acted upon if the movant has already filed in the Supreme Court an appeal by certiorari or a motion for extension of time to file such petition. If such petition is subsequently