

SECOND DIVISION

[G.R. No. 128805, October 12, 1999]

MA. IMELDA ARGEL AND HON. DEMETRIO M. BATARIO, JR. IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA, BRANCH 48, PETITIONERS, VS. THE COURT OF APPEALS AND ROSENDO G. GUEVARA, RESPONDENTS.

DECISION

QUISUMBING, J.:

This petition for review, under Rule 45 of the Rules of Court, assails the Decision of the Court of Appeals dated December 20, 1996, in CA-G.R. No. SP 40372, as well as the Resolution on March 31, 1997, denying petitioner's Urgent Motion for Reconsideration. The impugned Decision granted private respondent's petition for *certiorari* and set aside the Order of the trial court dated December 12, 1995.

The parties do not dispute the essential facts of the present case, as follows:

On August 31, 1995, the Regional Trial Court of Manila, Branch 48 handed down its decision in Special Proc. No. 92-62305. The decretal portion of the said decision, reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff [herein petitioner, Ma. Imelda Argel] and against the defendant [herein respondent, Rosendo G. Guevarra], ordering the latter:

1. To immediately deliver and assign to his son, Victorio Guevara, the amount of P1,506,545.80, which is one half of the defendant's share in his mother's estate, or the equivalent of $\frac{1}{2}$ share of Victorio in the undivided estate of the defendant's parents (to be deducted from the $\frac{2}{12}$ share of the defendant), as the presumptive legitime of Victorio Guevara, without prejudice to his ultimate successional rights. The legitime should be annotated on all the land titles mentioned herein, even if they should still be in the name of the deceased parents of the defendant until such time as a partition has been made between him and his co-heirs. After which specific properties equivalent to his legitime shall be conveyed to Victorio Guevara as may be agreed upon between the defendant and the plaintiff guided always by and for the best interest of the child.

If the presumptive legitime is not delivered within 90 days from the date of judgment, a re-appraisal of the properties comprising the estate at the expense of the defendant shall be made at the option of Victorio Guevara and/or his natural

guardian, the plaintiff, prior to actual delivery, in order to account for inflation or deflation.

Failing this, interest at the rate of 12% per annum, is to be imputed on the principal value of the legitime, P1,506,545.80 from the date of this decision until actual delivery of the presumptive legitime to the child. This interest shall be satisfied from the share of the defendant in the rental income of the estate of his parents and paid monthly to Victorio Guevara. Otherwise, the interest not paid monthly will be capitalized and will earn interest at a similar rate.

2. To immediately transmit to his son, through a trust fund under the care of the plaintiff, a monthly support of P8,000.00 or P96,000.00 per annum for the educational support of his son Victorio;

3. To pay the plaintiff actual and compensatory damages in the amount of Thirty Thousand Pesos (P30,000.00), moral damages in the amount of Twenty Thousand Pesos (P20,000.00); cost(s) of suit and attorney's fees in the amount of One Hundred Thousand Pesos (P100,000.00) with interest at 12% per annum until fully paid.

"SO ORDERED."^[1]

Petitioner Ma. Imelda Argel's counsel received a copy of the said decision on September 11, 1995. The respondent, in turn, was served a copy only on September 21, 1995.

On September 26, 1995 (the fifteenth day from receipt of the decision), petitioner's counsel filed a pleading captioned as a "Motion for Extension of Time (to File Motion for Reconsideration of the Decision dated August 31, 1995)" with the trial court. The motion prayed "for an extension of five (5) days to file her motion for reconsideration of the decision in this case for the reason that petitioner's counsel is unable to finish her motion for reconsideration which is due tomorrow September 26, 1995...due to her voluminous case load and its deadlines falling within this week."^[2]

Petitioner, however, did not wait for the resolution of her motion for extension of time. On September 29, 1995, she filed her motion for reconsideration. Thus, the latter motion was filed on the 18th day counted from her receipt of the trial court's decision.

On October 2, 1995, private respondent Rosendo G. Guevarra, filed his Notice of Appeal with the trial court.

On October 20, 1995, private respondent filed a manifestation and opposition to the petitioner's motion for reconsideration. Private respondent called the trial court's attention to the doctrine in *Habaluyas v. Japzon*,^[3] prohibiting motions for extension of time to file motion for new trial or reconsideration. The said doctrine had been restated and clarified for the guidance of bench and bar in Supreme Court Circular No. 10, dated August 28, 1986, which provides in part:

“(1) Beginning one month after the *promulgation* of this Resolution, the rule shall be strictly enforced that *no motion for extension of time to file a motion for new trial or reconsideration* may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court (now Court of Appeals). *Such a motion may be filed only in cases pending with the Supreme Court* as the court of last resort, which may in its sound discretion either grant or deny the extension requested. x x x (Italics in the original)”

On October 30, 1995, the trial court set the hearing of the petitioner’s motion for reconsideration.

On December 12, 1995, the trial court issued an order granting the petitioner’s “Motion for Extension of Time (to File Motion for Reconsideration dated August 31, 1995).” The trial court’s rationale for the order was the fact that petitioner Ma. Imelda Argel was a permanent resident of Australia, and it would take time for her to be notified of the decision and to confer with her counsel.

Said order of the trial court also amended the last three paragraphs of page 14 of his Decision dated August 31, 1995, to read as follows:

“To grant interest at 20% per annum on the presumptive legitime of P1,506,545.80 from the date of the Decision until actual delivery; and

“To grant her the amount of P1,543,000.00 in actual and compensatory damages and the amount of at least P500,000.00 in moral and exemplary damages.

“SO ORDERED.”^[4]

On January 16, 1996, private respondent filed an amended notice of appeal. Private respondent then filed a petition for *certiorari* and prohibition with a prayer for a temporary restraining order and/or writ of preliminary injunction with the Supreme Court. The petition was docketed as G.R. No. 126786. It was referred to the Court of Appeals for proper determination by virtue of a Resolution of this Court dated March 11, 1996.^[5]

On May 15, 1996, the appellate court gave due course to private respondent’s petition. The same was docketed as CA-G.R. SP No. 40372. The Court of Appeals likewise issued, as prayed for, a temporary restraining order.

On December 20, 1996, the Court of Appeals handed down the assailed decision. Its decretal portion provides:

“WHEREFORE, the instant petition for *certiorari*, with prayer for a temporary restraining order and/or writ of preliminary injunction is GRANTED, and the order, dated December 12, 1995, of the RTC-Manila, Branch 48, in Civil Case No. 92-62305 is SET ASIDE.”

“IT IS SO ORDERED.”^[6]

On January 18, 1997, petitioner filed her motion for reconsideration of the decision of the appellate court. Said motion was denied by a resolution dated March 31, 1997. Petitioner now seeks our review of both decision and resolution, on the following grounds: