

NINTH DIVISION

[CA–G.R. SP No. 138131, March 16, 2015]

BLANDINA GARCIA, PETITIONER, VS. THE HON. JOSE S. JACINTO, JR., PRESIDING JUDGE, BRANCH 45, REGIONAL TRIAL COURT, SAN JOSE, OCCIDENTAL MINDORO, PUBLIC RESPONDENT,

- AND -

SPOUSES ROGELIO AND LETICIA TAMARES, AND ARLEEN B. VALERA, AS REPRESENTED BY LEODEGARIO B. VALERA, JR., PRIVATE RESPONDENTS.

D E C I S I O N

DICDICAN, J.:

Before us is a Petition for *Certiorari*^[1] filed by herein petitioner Blandina Garcia ("petitioner") pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order^[2] that was issued by public respondent Judge Jose S. Jacinto, Jr. of Branch 45 of the Regional Trial Court of the Fourth (4th) Judicial Region situated in San Jose, Occidental Mindoro ("lower court") dated August 8, 2014 in Civil Case No. R-831 ("first assailed order"). Likewise assailed in the instant petition is the subsequent Order^[3] of the lower court dated September 19, 2014 which denied the motion for reconsideration of the August 8, 2014 Order that was issued by the said lower court for lack of merit ("second assailed order").

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint^[4] for annulment of deed of reconveyance and titles which was filed by herein petitioner against Salvador Borromeo, Sr. ("Borromeo") in the lower court on December 11, 1992. In the said complaint, the petitioner claimed that, from the years 1946 until 1970, she and Borromeo lived together as husband and wife and, out of their union, they begot eight (8) children. Thus, through their joint efforts, the couple acquired several real properties including a parcel of land with an area of Seventy Eight Thousand Nine Hundred Four (78,904) square meters located at San Jose, Occidental Mindoro, and covered by Transfer Certificate of Title No. T-2515 ("subject property").

However, the petitioner averred that, due to their intermittent quarrels that were brought about by Borromeo's womanizing, the couple decided to separate in the year 1970. They then agreed to divide their real properties between the two (2) of them, including the subject property which was conveyed by Borromeo in favor of the petitioner. Subsequently, TCT No. T-2515 was canceled and a new land title

covering the subject property, TCT No. T-4335, was issued in the name of the petitioner as the sole and absolute owner thereof.

Consequently, sometime in the year 1976, the petitioner decided to convert the subject property into a subdivision and she entered into a business partnership with Borrromeo for the aforesaid purpose. A subdivision plan was thereafter prepared whereby a portion of the subject property was divided into one hundred sixty five (165) lots. However, sometime in August 1992, the petitioner purportedly discovered that Borrromeo caused the cancellation of the land titles covering the said 165 lots using a fictitious deed containing forged signatures of the petitioner. As a result of the alleged falsification, new land titles covering the said 165 lots were issued in the name of Borrromeo.

The foregoing antecedents thereby prompted herein petitioner to file a civil case for annulment of deed of reconveyance and titles against Borrromeo in the lower court in the year 1992. In her complaint, the petitioner prayed that the deed of reconveyance, as well as the 165 land titles that were subsequently issued pursuant thereto, be declared as null and void by the lower court. Trial on the merits of the said civil case was thereafter conducted by the lower court and, after the presentation by the petitioner of her first witness, the original complaint was amended on March 2, 1993 and, subsequently, on October 5, 2005.

In the meantime, the case was archived by the lower court in view of the petitioner's failure to proceed with the presentation of her evidence.

Thus, on October 2, 2008, herein private respondent Arleen B. Valera ("private respondent Valera") filed a motion for intervention in the lower court which the latter granted. Several trial dates were then set by the lower court for the continuation of the presentation of evidence by the petitioner but the latter, nonetheless, failed to proceed with the aforesaid presentation of evidence. Thus, on April 10, 2013, private respondent Valera filed in the lower court a Motion to Issue Last Chance to Plaintiff to Present Evidence^[5] praying that the lower court issue an order requiring the petitioner to proceed in the presentation of her evidence on May 17, 2013.

Subsequently, on April 15, 2013, the lower court issued an Order^[6] directing the petitioner to present her witness on May 17, 2013 with a stern warning as follows:

"WHEREFORE, this Court hereby orders the plaintiff to present her witnesses if any on May 17, 2013 at 8:30 A.M. and at 2:00 P.M. with stern warning that should the plaintiff still fail to proceed with the prosecution of this case, with or without counsel, and with or without appearance, any manifestation/motion from the movant's counsel shall be entertained accordingly.

"This is without prejudice however to any continuing dialogue between or among the parties for possible settlement, but in the interest of justice, the proceedings must proceed to obviate unreasonable delay.

"Issue notices or subpoena as the case may be to all the parties concerned.

"SO ORDERED."

The aforequoted Order was followed by another Order^[7] that was issued by the lower court on May 10, 2013 whereby the lower court directed the petitioner to submit the judicial affidavits of her witnesses at least three (3) days before the scheduled presentation of her evidence on May 17, 2013. However, on the latter date, the petitioner again failed to present her evidence. Thus, the lower court again scheduled two (2) trial dates in order to give the petitioner the opportunity to continue with the presentation of her evidence.

Consequently, in a Motion^[8] dated July 16, 2013, the petitioner requested that the lower court take her oral deposition in lieu of her judicial affidavit in view of the fact that she was a resident of California and that she was already unable to travel to San Jose, Occidental Mindoro because of her advanced age. The lower court granted the aforesaid motion to take oral deposition that was filed by the petitioner in an Order^[9] dated November 6, 2013.

Thereafter, however, several trial dates were set by the lower court in order to take the oral deposition of the petitioner but the latter was still unable to comply during the aforesaid trial dates. Finally, on August 8, 2014, the lower court issued the herein first assailed order giving the petitioner only until September 25 and 26, 2014 within which to conduct a video-teleconference for her oral deposition, taking into consideration the time difference between California, U.S.A. and the Philippines. Moreover, the aforesaid first assailed resolution further states:

"Subject to the stern condition that should the video tele-conference hearing should not be held for whatever reasons on said date and time as approved by the Court the failure of the plaintiff to do so shall be considered as a permanent waiver to present her testimony. The proceedings of this case must be put to rest pursuant to the Rules, thus, further unreasonable delay is abhorred."

Aggrieved by the foregoing disposition of the lower court, herein petitioner filed a Motion for Reconsideration^[10] of its herein first assailed August 8, 2014 Order. However, in the herein second assailed Order dated September 19, 2014, the lower court likewise denied the aforementioned motion for reconsideration that was filed by the petitioner for lack of merit thereof.

Hence, the petitioner filed this petition for *certiorari* wherein the petitioner raised the following acts of grave abuse of discretion that were purportedly committed by the lower court, to wit:

I.

THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF ITS JURISDICTION WHEN IT PRECIPITATELY RULED THAT THE PETITIONER HAD PERMANENTLY WAIVED HER RIGHT OR OPPORTUNITY TO PRESENT HER OWN TESTIMONY MERELY BECAUSE ONE OR TWO HEARINGS WHICH WERE SCHEDULED FOR THE TAKING OF THE PETITIONER'S DEPOSITION VIA