

EIGHTH DIVISION

[CA-G.R. SP No. 117446, November 24, 2014]

**ROBERT DEL MAR REPRESENTED BY ANGELITA A. AUSTRIA,
PETITIONER, VS. REGIONAL TRIAL COURT OF SANTIAGO CITY
(ISABELA), BRANCH 21, NORMA EBERSOLE DEL MAR
REPRESENTED BY GERALD EBERSOLE DEL MAR, FLORENCE
EBERSOLE [DEL MAR] SCHUCHMAN, RESPONDENTS.**

DECISION

GARCIA-FERNANDEZ, J.:

This is a petition for *certiorari* filed by Robert Del Mar, through his attorney-in-fact, Angelita A. Austria, seeking to annul and set aside the orders of the Regional Trial Court of Santiago City, Isabela (RTC) Branch 21 on April 12, 2010^[1] and October 11, 2010^[2] in Civil Case No. 2373.

The petition stemmed from a case for reconveyance and annulment of titles (Transfer Certificate of Title Nos. T-82258, 82257, T-82260, T-82261, T-82263, T-82264, T-134664, T-117594 and T-116117) filed by the late Norma Ebersola Del Mar (Norma) against her son Robert Del Mar (petitioner) with the RTC docketed as Civil Case No. 2373.^[3] The RTC Branch 35 rendered a decision on October 21, 1997 against petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is rendered against defendant and in favor of plaintiff, as follows:

1. Ordering the Register of Deeds at Ilagan Isabela to cancel Titles No. T-82257, T-82261, T-82258, T-82263, T-134664, T-116117 and T-82259;
2. Ordering Robert E. del Mar to reconvey the ownership of properties to the plaintiff and in case of failure on the part of the defendant, the Register of Deeds is directed to execute the necessary deed of reconveyance in favor of the plaintiff;
3. Enjoining permanently the defendant or any person acting for and in his behalf from committing or doing any act of disposition of the properties;
4. Ordering the defendant to pay the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) as moral damages to plaintiff;
5. Ordering the defendant to pay the amount of TWO

HUNDRED FIFTY THOUSAND PESOS (P250,000.00) as attorney's fees;

6. Cost of the suit;

SO ORDERED.^[4]

The decision was appealed to this Court (CA-G.R. CV No. 58804) and to the Supreme Court (in G.R. No. 139008), but the appeals were dismissed on January 13, 1999,^[5] and March 13, 2002,^[6] respectively, and an entry of judgment was issued.^[7] Norma died while the petition was pending in the Supreme Court, however, there was no substitution of parties because the Supreme Court and RTC were not informed of Norma's death. Subsequently, a writ of execution was issued by the RTC to enforce the decision on September 7, 2005^[8] and petitioner's certificates of title were cancelled and new certificates of title in the name Norma were issued on June 8, 2006.^[9]

Upon issuance of the new certificates of title in the name of Norma, Gerald and Florence (private respondents) executed an extrajudicial settlement of estate with simultaneous partition of shares,^[10] adjudicating these properties to them on August 4, 2006. By virtue of the extrajudicial settlement, new certificates of title in the name of private respondents were issued on November 24, 2006.^[11]

On motion of petitioner,^[12] the RTC Branch 35 issued an order on July 17, 2007, recalling the writ of execution issued on September 7, 2005 and all the subsequent orders relative to the execution.^[13] Thus:

The Court perfectly agrees with the defendant-movant.

When the plaintiff died on October 12, 1999, she lost her judicial and personality, and consequently, she had no more locus standi in this case, including her attorney in fact. Whereupon, all acts done after her death have no force and effect.

The New Civil Code of the Philippines Book I on Persons, Title I, civil personality, particularly Article 37, expressly provides:

"Article 37. Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, which is the power to do acts with legal effects, is acquired and may be lost."

More emphatically, Article 42 of the same code provides:

"Article 42. Civil personality is extinguished by death. The

effect of death upon the rights and obligation of the deceased is determined by law, by contract and by will."

When her lawyer filed a motion for execution on September 5, 2005, the motion should have been considered a mere scrap of paper simply because the attorney in fact as well as the counsel who filed the motion had no more authority to do so because their authority had ceased to exist when the plaintiff who was their principal had already died. The Court acted favorably on the motion only in all good faith because it had no knowledge whatsoever about plaintiff's death at that point in time. The execution made thereafter also follows as of no force and effect due to the extinguishment of plaintiff's personality through her death.

In short, the death of the plaintiff rendered her juridical as well as civil personality lost and extinguished. According to Article 42 above, her rights and interest in the decision of the Court in this case in her favor should now be determined especially by the law on succession. Thus, until and unless a duly appointed administrator representing the estate of the deceased plaintiff in this case, the Court cannot in any way act on the execution of the decision with legal force and effect.

WHEREFORE, the motions are granted. Consequently, the following Orders are hereby reversed, recalled and cancelled, to wit:

- a) Order of September 7, 2005 granting the motion for execution;
- b) Writ of Execution also dated September 7, 2005; and
- c) Resolution dated March 19, 2007 ordering full execution of the decision.

Accordingly, the Register of Deeds is hereby ordered 1) to reinstate the following certificates of titles, namely: T-82260, T-82261, T-82258, T-82264, T-82263, T-82259 and T-134644 back in favor of defendant Robert Del Mar; and 2) to cause the cancellation of these titles namely: TSC-9463, TSC-9464, TSC-9465, TSC-9466, TSC-9467, TSC-9468, TSC-9469 and TSC-9470 in the name of the deceased plaintiff Norma Ebersole Del Mar, and all derivative titles therefrom.

Finally, the executing sheriff is ordered to defer execution of the decision in this case.

SO ORDERED.^[14]

Private respondents assailed the order via petition for *certiorari* (CA-G.R. SP No. 101768) to this Court, but it was dismissed on March 25, 2008 for failure to comply with this Court's resolution.^[15] On petitioner's motion,^[16] the RTC Branch 35 issued