

SPECIAL FORMER SPECIAL SEVENTH DIVISION

[CA-G.R. SP. NO. 101441, December 12, 2014]

**MARIO R. VALDEZ AND REMEDIOS R. VALDEZ-REYES,
PETITIONERS, VS. THE HONORABLE PRESIDING JUDGE JOVEN
M. COSTALES, REGIONAL TRIAL COURT, FIRST JUDICIAL
REGION, BRANCH 45, URDANETA CITY (PANGASINAN),
ADELAIDA VALDEZ-DISCIPULO, JOSEPHINE R. VALDEZ-TORNE,
FLORIDA R. VALDEZ, AND SONIA R. VALDEZ, RESPONDENTS.**

D E C I S I O N

SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Annulment of Judgment^[1] under Rule 47 of the 1997 Revised Rules of Civil Procedure seeking to annul the Decision^[2] dated April 2, 2007 of the Regional Trial Court (RTC), First Judicial Region, Branch 45, Urdaneta City, Pangasinan in Civil Case No. U-8563 for Declaration of Nullity of Documents, Nullification of Mortgage, Partition and Damages entitled "ADELAIDA VALDEZ, JOSEPHINE VALDEZ-TORNE, FLORIDA VALDEZ, and SONIA VALDEZ, Plaintiffs, versus MARIO VALDEZ and EDA JANE BATENGA, Defendants.", the dispositive portion of which reads:

"WHEREFORE, the Court renders judgment by default as follows:

- 1). The Court orders and directs the cancellation of Transfer Certificate of Title No. 236880 in the name of defendant Mario Valdez and said defendant is ordered and directed to restore Transfer Certificate of Title No. 231972 in the name of Sotrico Valdez married to Sofia R. Valdez;
- 2). The Court declares that the plaintiff Adelaida Valdez to be the legal owner of 250 square meters, middle portion, of the land, subject matter of this complaint;
- 3). The Court orders and directs that the remaining portion or area covered by Transfer Certificate of Title No. 231972 which is 847 square meters shall be partitioned among the plaintiffs, Josephine Valdez-Torne, Florida Valdez, Sonia Valdez and defendant Mario Valdez, in equal shares or 211. 75 square meters each;
- 4). The Court orders and directs the cancellation of the Mortgage Contract dated October 28, 2004, entered by and between the defendants Mario Valdez and Eda Jane-Batenga;
- 5). The Court orders the defendant, Mario Valdez, to pay to the plaintiffs the amount of ₱30,000.00 as moral damages and ₱20,000.00 as litigation

expenses.

SO ORDERED.”^[3]

The facts are:

The instant controversy stemmed from a Complaint^[4] for Declaration of Nullity of Documents, Nullification of Mortgage, Partition, and Damages filed by private respondents Adelaida Valdez-Discipulo, Josephine Valdez-Torne, Florida Valdez, and Sonia Valdez against petitioner Mario Valdez and Eda Jane Batenga averring that: private respondents discovered that Transfer Certificate of Title (TCT) No. 231972^[5] with an area of 1,097 square meters in the name of Sotrico Valdez, private respondent Adelaida's brother and the father of the other private respondents, was fraudulently canceled through a Deed of Quitclaim leading to the issuance of three (3) titles: TCT No. 236879 in the name of Spouses Gilbert and Emilia Tomines with an area of 100 square meters, TCT No. 236880^[6] in the name of petitioner Mario, brother of the private respondents, with an area of 575 square meters, and TCT No. 236881 also in the name of petitioner Mario, with an area of 239 square meters; the remaining 183 square meters, meanwhile, was disposed in favor of one Rosalina Peralta^[7], also through a fraudulent Deed of Quitclaim supposedly executed by Sotrico Valdez; these acts were perpetuated by petitioner Mario to deprive the private respondents, his siblings, of their rights over the subject property; worse, they learned that petitioner Mario mortgaged^[8] the aforesaid 575-square meter portion under TCT No. 236880 in favor of Eda Jane Batenga (Batenga for brevity) for ₱150,000.00, appropriating the proceeds thereof to the complete exclusion of private respondents; and, petitioner Mario's actuations prompted private respondent Adelaida to file a criminal complaint^[9] against him for falsification of public documents. Private respondents prayed that TCT No. 236880 in the name of petitioner Mario, as well as the mortgage he executed in favor of Batenga be canceled and that the said 575-square meter portion be partitioned among them.

Summons^[10] was served to petitioner Mario on July 10, 2006. As regards Batenga, private respondents filed a Motion for Issuance of Alias Summons^[11] from her given address at Cainta, Rizal to her current residence at Gracia Village, Barangay Nancayasan, Urdaneta City, which the lower court granted.^[12] Thus, Alias Summons^[13] was served at the said address to Lorna Nero, Batenga's sister, who refused to sign the same.^[14]

Due to petitioner Mario and Batenga's failure to file their Answer, private respondents filed a Motion^[15] to Declare them in Default and/or allow the presentation of evidence *ex-parte*, which was granted by the lower court in its Order^[16] dated November 16, 2006. Private respondents offered the testimonies of Adelaida^[17] and Florida Valdez^[18], and thereafter filed their Formal Offer of Evidence.^[19]

On April 2, 2007, the lower court rendered the assailed Decision^[20] in favor of the private respondents, ordering the cancellation of TCT No. 236880 in the name of

petitioner Mario as well as the mortgage contract he executed in favor of Batenga. The lower court declared private respondent Adelaida the legal owner of the 250-square meter portion of subject property, while the remaining 847 square meters was partitioned among private respondents Josephine, Florida, Sonia, and petitioner Mario.

On June 14, 2007, petitioner Remedios filed a Complaint^[21] before the RTC of Urdaneta City to annul the said Decision of the RTC, Branch 45. The RTC, Branch 47 dismissed^[22] the complaint for lack of jurisdiction, holding that it cannot annul the decision of a co-equal and coordinate court.

Undaunted, on November 27, 2007, petitioners Mario and Remedios filed before this Court the instant Petition^[23] for Annulment of Judgment averring that: it was in May 2007 when petitioner Remedios obtained a copy of the assailed Decision; private respondents deliberately and maliciously excluded an indispensable party to the case, petitioner Remedios, who is their sister; with respect to petitioner Mario, it was made to appear that he personally received the summons despite the fact that at that time, he was in Jaro City, Iloilo looking for a job, and not in Urdaneta; further, Eda Jane Batenga was never personally served a copy of the summons due to the wrong address fraudulently supplied by the private respondents; Batenga resided in Vista Verde, Cainta, Rizal and not in Gracia Village Subdivision, Nancayasan, Urdaneta City; the Sheriff of RTC, Branch 45, however, insisted and tendered the summons to one Lorna Nero, alleged sister of Batenga, who was not authorized to receive the same nor was living with her; notwithstanding this invalid service of summons to petitioner Mario and Batenga, the RTC Branch 45 declared them in default and allowed private respondents to present their evidence *ex parte*; moreover, the assailed Decision is not supported by the evidence and not in accord with private respondents' prayer in their complaint; private respondents malevolently excluded Spouses Tomines and Rosalina Peralta, who are occupants and registered owners of portions of the subject property; and, extrinsic fraud was committed by the private respondents which prevented petitioners from having a fair trial.

For their part, private respondents filed their Answer^[24] maintaining that: they religiously persuaded petitioner Remedios to join them in recovering from their brother, petitioner Mario, the ownership of their shares from their parents, but she refused and mockingly discouraged them from pursuing their plan; according to petitioner Remedios, the subject property was already titled in petitioner Mario's name and that private respondents could do nothing to recover the same; knowing that the subject property was mortgaged to Batenga and about to be foreclosed, petitioner Remedios told private respondents to just allow the property to be foreclosed, so that her family could move to her sister-in-law's house; anent petitioner Mario, he was duly served with summons as he in fact attended the first hearing on July 10, 2006 for the issuance of a Temporary Restraining Order; he personally affixed his signature on the face of the summons dated June 30, 2006; petitioner Mario, however, failed to file his Answer and willfully did not participate in the proceedings, evading receipt of any process from the court; as for Batenga, she was residing at her sister Lorna Nero's house at 7th Street, Gracia Village, Urdaneta City during the period when summons was served; it was Gemma Tugas, private respondent Adelaida's daughter, who learned that Batenga resided at her sister's house in Urdaneta at the time of filing of the Motion for Issuance of Alias Summons;

likewise, Batenga was seen by her neighbors at the premises a few minutes before the Sheriff of RTC, Branch 45 served the summons; private respondents sought the execution of the assailed Decision but only to the extent of the 575-square meter portion covered by TCT No. 236880 in the name of petitioner Mario; private respondents did not disturb the portions titled in the names of Spouses Tomines and Rosalina Peralta, as agreed upon in the Deed of Partition^[25] they executed; while the lower court explicitly ordered the cancellation of TCT No. 236880 in the name of petitioner Mario, nowhere in the assailed Decision is it stated that the titles in the names of Spouses Tomines and Rosalina Peralta are to be canceled; the exclusion of petitioner Remedios from the case was her own doing as she refused to join private respondents in recovering their inheritance from petitioner Mario; she merely laughed at private respondents and discouraged them to file any action against petitioner Mario; the attitude of petitioner Remedios in not being bothered by the information relayed to her by the private respondents regarding the anomalous disposals of petitioner Mario is suggestive of a connivance between the petitioners in the unlawful disposal of the inheritance; petitioner Remedios' husband, Jose Reyes, even participated as a witness to the Deed of Quitclaim^[26], which is one of the documents falsified^[27] by petitioner Mario; it is only when private respondents succeeded in their quest for justice that petitioner Remedios desired to put in vain their efforts; petitioners' manifestly false allegations before this Court is undoubtedly contemptuous; the mortgage executed by petitioner Mario in favor of Batenga was with the knowledge and acquiescence of petitioner Remedios, which explains her refusal to join private respondents in the case.

On February 19, 2008, this Court issued a Resolution^[28] referring the case to the Executive Judge of the Regional Trial Court of Urdaneta City for raffle and for the conduct of further proceedings, pursuant to Rule 47, Section 6 of the 1997 Revised Rules of Civil Procedure.

Consequently, the instant petition was raffled to RTC, Branch 48, Urdaneta City for reception of evidence. The parties submitted their respective pre-trial briefs^[29], followed by the conduct of Pre-Trial Conference^[30] on November 7, 2008. Trial thereafter ensued.

Petitioner Remedios testified^[31] that: private respondent Adelaida is her aunt, being her father's sister, while private respondents Josephine, Florida, and Sonia are her siblings; her other siblings are Casiano, Eduardo and petitioner Mario; Casiano and Eduardo's share in the inheritance were already given to them by their father; the subject property was registered under the name of their father, Sotrico, and transferred to petitioner Mario who remained in possession of the title; petitioner Remedios was not notified and purposely omitted in the case filed by the private respondents before the RTC Branch 45, while petitioner Mario was in Jaro, Iloilo at the time of filing; she learned of the case about four (4) or five (5) years ago when private respondents wanted to partition the subject property; private respondents tried to eject her from the property; she talked to her siblings and inquired why she did not have a share; private respondents told her that she did not participate in the case, so she replied why would she participate as the case was between private respondent Adelaida and petitioner Mario; petitioner Remedios is one of the heirs of Sotrico and was the first who constructed a house on the subject property; and, she came to know of the case when private respondents caused the survey of the land.

Petitioners filed their Formal Offer of Evidence^[32] on August 11, 2011.

For the private respondents, Sonia Valdez testified^[33] that: private respondent Adelaida is her aunt, while private respondents Josephine and Florida are her sisters; the subject property, covering an area of 1,097 square meters, is owned by their father, Sotrico Valdez; a portion thereof was mortgaged by their brother, petitioner Mario, to Batenga and they filed the case to cancel the said mortgage; petitioner Mario fraudulently caused the issuance of his title, and private respondents want the title returned to the name of their father; petitioner Mario did not give them a chance to share in the inheritance from their father; private respondent Sonia and her siblings executed a Deed of Partition as for the 575-square meter portion, and they did not include in the partition the lots sold by petitioner Mario to Spouses Tomines and Rosalina Peralta; the allegation that petitioner Mario did not receive the summons is not true as he was in Nancayasan, Urdaneta at the time it was served; the sheriff delivered summons to both petitioner Mario and Batenga; she even saw petitioner Mario attend the hearing before the RTC, Branch 45, Urdaneta City; petitioner Remedios, meanwhile, knew of the case filed before Branch 45 as they talked to her for many times in 2006; together with private respondents Adelaida and Florida, they informed petitioner Remedios of the case; petitioner Remedios, however, refused to be included; she told them that she already had her own land which was acquired by her sister-in-law; petitioner Remedios was in cohorts with petitioner Mario; most of the time, they accompany each other in processing the papers of the subject property, such as the Deed of Quitclaim; Jose Reyes, husband of petitioner Remedios, even signed the said document; a falsification case was filed against petitioner Mario by their aunt, private respondent Adelaida, and a warrant of arrest was already issued by the MTCC; the case, however, did not continue because petitioner Mario died; and, her siblings Casiano and Eduardo were not included in their complaint as plaintiffs because they already received their share in the inheritance.

The parties stipulated on the testimonies of private respondent Florida, Sheriff Virgilio Domaloy, Atty. Max Pascua, and agreed to dispense with the same.^[34]

On August 9, 2012, private respondents filed their Formal Offer of Exhibits.^[35]

The parties thereafter submitted their respective Memorandum.^[36]

In the Resolution^[37] dated June 11, 2014, this Court ordered the Presiding Judge of the RTC, Branch 48, Urdaneta City to submit his Written Report, and the Branch Clerk of Court to submit a written compliance regarding the particulars of the marking of exhibits. In Compliance thereto, Judge Gonzalo P. Marata submitted to this Court his Written Report^[38] dated August 4, 2014, together with the Summary of Re-marked Exhibits.

The instant Petition for Annulment of Judgment raises the following issues^[39]:

I.