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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROSALINDA M. MANTEL
(deceased) and CIPRIANO
C. MONTERO, JR.,
Petitioners,

G.R. No. 255214

Present:

- versus -

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* JJ.

SEBASTIANA MONTERO
(deceased), and HON. JUDGE
VIRGINIA TEJANO-ANG, in her
capacity as Presiding Judge of
Regional Trial Court, Branch 1,
Tagum City, Davao del Norte,
Respondents.

Promulgated:

JAN 27 2025
MicDelaH

DECISION

DIMAAMPAO, J.:

Before this Court is a Petition for *Certiorari*¹ filed by petitioners Rosalinda M. Mantel (Rosalinda) and Cipriano C. Montero, Jr. (Cipriano, Jr.) under Rule 65 of the Rules of Court, assailing the October 14, 2020² and November 22, 2020³ Orders of Branch 1, Regional Trial Court, Tagum City, Davao del Norte (RTC) in Civil Case No. 4224. The first assailed Order granted the Motion to Approve the Last Will and Testament of Plaintiff Sebastiana Montero (Motion to Approve Last Will)⁴ while the second challenged Order denied the ensuing motion for reconsideration filed by one Atty. Vitaliano Valmoría, counsel of Rosalinda and Cipriano, Jr.

* On leave.

¹ *Rollo*, pp. 4–24.

² RTC records, pp. 812–815. *See also rollo*, pp. 34–37. The October 14, 2020 Order was penned by Presiding Judge Virginia D. Tehano-Ang.

³ *Id.* at 824–827. *See also rollo*, pp. 40–43. The November 22, 2020 Order was penned by Judge Virginia D. Tehano-Ang.

⁴ *Id.* at 793–797. *See also rollo*, pp. 27–31.

The instant case has its precursor in a Complaint for Annulment of Deed of Sale and Delivery of Title (annulment complaint)⁵ filed before the RTC by respondent Sebastiana Montero (Sebastiana) against Rosalinda and Cipriano, Jr., two of her children. This case was docketed as Civil Case No. 4224.⁶

The Complaint avers that sometime in March 2003, Rosalinda requested Sebastiana for authority to administer a 157-square-meter parcel of land located in Sobrecary Street, Tagum City.⁷ This authorization was to be formalized through a deed of absolute sale, with the understanding that it will not be used to transfer title.⁸ Agreeing to the request, Sebastiana and her husband, Cipriano Montero, Sr. (Cipriano, Sr.) executed the deed in favor of Rosalinda, without receiving any consideration in return.⁹ Nonetheless, Sebastiana retained possession of the owner's duplicate of Transfer Certificate of Title (TCT) No. T-12066 covering the property.¹⁰

When Cipriano, Sr. passed away, Sebastiana discovered that TCT No. T-12066 was missing from where it was kept.¹¹ She later found it in the possession of Cipriano, Jr.¹² To make matters worse, she was informed that Rosalinda had initiated the process of transferring the land's title to her name.¹³ Feeling aggrieved, Sebastiana filed the annulment complaint.

In due course, the RTC rendered a Decision¹⁴ in favor of Sebastiana, declaring the sale between her and Rosalinda as null and void, thusly:

WHEREFORE, premises considered, this COURT hereby declares the assailed DEED OF ABSOLUTE SALE[,] dated 13 March 2003, executed by PLAINTIFF SEBASTIANA and CIPRIANO MONTERO SR., in favor of Defendant [ROSALINDA], and entered in the Notarial Register of Notary Public in Tagum City, Atty. Ma. Lina Baura as Doc. No. 466, Page 78, Book No. II, Series of 2003, NULL AND VOID for being ABSOLUTELY SIMULATED and FALSE.

The Registry of Deeds of the Province of Davao del Norte is hereby directed to cancel Transfer Certificate of Title No. 142-2013002835, registered in the name of defendant, [ROSALINDA], and to cause its reversion to the name of the prior registered owner, PLAINTIFF [SEBASTIANA], by reinstating Transfer Certificate of Title No. T-12066 in the name of [SEBASTIANA], after payment of required fees.

⁵ RTC records, *id.* at 1-7.

⁶ *Id.* at 1.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 3.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 715-739. The March 12, 2017 Decision was penned by Presiding Judge Virginia D. Tehano-Ang.

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SO ORDERED.¹⁵ (Emphasis in the original)

On appeal, the CA affirmed the RTC's finding that the sale was absolutely simulated.¹⁶ Rosalinda and Cipriano, Jr. then filed a petition for review on *certiorari* before this Court.¹⁷ While the case was pending, Rosalinda passed away on September 14, 2018 and was replaced by her sole heir, Laura Jane Mantel.¹⁸

Eventually, this Court denied Rosalinda and Cipriano, Jr.'s petition for failure to show any reversible error in the CA Decision.¹⁹ On August 19, 2019, the Court's Resolution became final and executory.²⁰

Meanwhile, Sebastiana passed away on May 9, 2019.²¹ Following her death, her other children – Lydia Villalobos (Lydia), Leopoldo Montero (Leopoldo), Manolito Montero, Justine Ilagan, Russel Montero, and Ramonito Montero (Lydia et al.) – sought to carry out the provisions of her will. Thus, they filed the Motion to Approve Last Will before the RTC as an incident of the annulment case.²²

Sebastiana's last will disinherited three of her children: Rosalinda, Cipriano, Jr., and Wilfredo C. Montero, citing their supposed disrespect and maltreatment of her.²³ Sebastiana likewise transferred the property subject of the annulment case to her son, Rolando "Boy" Montero, and appointed Lydia and Leopoldo as executor and substitute executor, respectively, without need to post bond.

In the first impugned Order where the RTC granted the motion to approve the last will and testament of Sebastiana, the trial court disposed as follows:

In view hereof, the [Sebastiana's] Heirs' Motion to Approve the Last Will and Testament of Plaintiff [Sebastiana] is hereby Granted and those assigned as the ones to manage the subdivision of the Estate, which properties were not included in the Last Will, shall be done by siblings [Lydia] (the eldest) and [Leopold(o)] (the 10th sibling) because they were appointed as EXECUTRIX and the SUBSTITUTE EXECUTOR[,] respectively, in accordance with the wishes of the Plaintiff in her WILL, and both of them need not present any BOND; for them to divide the remaining

¹⁵ *Id.* at 739.

¹⁶ *Id.* at 774–783. The May 10, 2018 Decision in CA-G.R. CV No. 04741-MIN was penned by Associate Justice Ruben Reynaldo G. Roxas, with the concurrence of Associate Justices Edgardo T. Lloren and Walter S. Ong of the Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

¹⁷ A copy of this Petition for Review on *Certiorari* was not appended to the instant Petition.

¹⁸ RTC records, p. 814. *See also rollo*, p. 36.

¹⁹ *Mantel v. Montero*, G.R. No. 241010 [Formerly UDK-16219], January 28, 2019 [Entry of Judgment, Third Division]; *id.* at 809–810. *See also rollo*, p. 25.

²⁰ RTC records, *id.*

²¹ *Id.* at 798.

²² *Id.* at 814. *See also rollo*, p. 34.

²³ *Id.*

area of the ESTATE of [Sebastiana], who executed her Last Will and Testament.

....

The Court noted that **Ramonito Montero**, the youngest (the 14th) of the **siblings**, who came from **Cebu**, is now residing in the subject residential house of the late [Sebastiana]; that after knowing that the subject property is now given by their mother to **Rolando Montero (Alias BOY)**, because **Rolando** was the one who took care of their mother Sebastiana, and spent for the needs of their parents since 1974; thus, **Plaintiff [Sebastiana]** chose him (Rolando or Boy) to be the one to acquire the subject property, consisting of **157 square meters, located along Sobrecary St., Tagum City**, at the corner, which is now a **commercial property**. Hence, **the Court explained to Ramonito Montero not to worry because he still has the right to receive a share in the remaining Estate**; because aside from that residential/commercial property with an area of 157 sqm., located at the corner, along the main road of Sobrecary St., which is the subject of this case; there are **remaining properties owned by their mother to be equally shared by them**, except those, who are excluded, namely [Rosalinda], [Cipriano, Jr.], and Wilfredo Montero. **For he (Ramonito) is not included among those disinherited in the Last Will and Testament; as there are only three (3) heirs, who are permanently excluded, namely: [Rosalinda], [Cipriano, Jr.] and Wilfredo Montero.**

....

The Registry of Deeds is hereby directed to comply with the Final Order of this Court to cancel the title in the name of [Rosalinda] and to return the title to the name of the former owner, [SEBASTIANA], and thereafter to cause that subject title, after being transferred to [SEBASTIANA], to transfer and register in the name of **Rolando Montero (Alias Boy)**, after the processing fees and taxes shall have been paid to the State.

SO ORDERED.²⁴ (Emphasis in the original)

Having presided over the annulment case, the RTC reasoned that it was in the best position to assess and confirm the maltreatment and disrespect endured by Sebastiana in the hands of her three disinherited children²⁵—

Since this Court is the one, who handles [sic] this case from **14 April 2011**, the date when it was filed, this Court had seen in the records and the actuations of the litigants that said **Testator was indeed maltreated and disrespected** by these ***three (3) disinherited children***; as they supported each other, despite the **maltreatment suffered by their mother**, from their maltreating sibling.²⁶ (Emphasis in the original)

²⁴ *Id.* at 814–815. See also rollo, pp. 36–37.

²⁵ *Id.* at 812. See also rollo, p. 34.

²⁶ *Id.*

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Additionally, the RTC determined that Sebastiana was of sound mind when she executed her last will and testament because it had the opportunity to observe her demeanor throughout the proceedings.²⁷

Cipriano, Jr. et al. then moved for reconsideration,²⁸ claiming that the first repugned Order violated the doctrine of immutability of judgments, since the annulment case had already been decided with finality by this Court.²⁹ In the second disputed Resolution, the RTC denied the bid for reconsideration.

According to the RTC, the decision granting the Motion to Approve Last Will neither changed, amended, nor revoked the decision declaring the sale of the subject property void.³⁰ Moreover, the RTC explained that the approval of Sebastiana's will was intended to avoid multiplicity of suits and to spare the parties from unnecessary inconvenience.³¹

Cipriano, Jr. et al. are now before this Court reiterating their claim that the RTC violated the doctrine of immutability of judgments.³² Commenting on the Petition,³³ representatives of the late Sebastiana note the following procedural lapses: (1) the Petition lacks proof of any authority to represent Rosalinda, who has since passed away;³⁴ (2) the Petition ought to have been filed before the CA, and the direct recourse before this Court contravened the doctrine of hierarchy of courts;³⁵ and (3) the requirement that there be no other plain, speedy or adequate remedy in the ordinary course of law was not satisfied because Cipriano, Jr. et al. still had an available recourse before the CA.³⁶

The Court's Ruling

Before delving into the merits, the Court must address the procedural defects that riddle the Petition-at-bench.

At first blush, the direct recourse done by Cipriano, Jr. et al. to this Court appears to violate the doctrine of hierarchy of courts, seeing as they bypassed the CA entirely. *Integrated Bar of the Philippines v. Purisima*³⁷ ingeminates that while it is true that the principle of hierarchy of courts was designed to restrain parties from directly resorting to this Court when relief

²⁷ *Id.* at 814. *See also rollo*, p. 36.

²⁸ *Id.* at 822–824. *See also rollo*, pp. 38–39.

²⁹ *Id.* at 822. *See also rollo*, p. 38.

³⁰ *Id.* at 827. *See also rollo*, p. 43.

³¹ *Id.*

³² *Rollo*, p. 18.

³³ *Id.* at 68–72.

³⁴ *Id.* at 69–70.

³⁵ *Id.* at 68.

³⁶ *Id.* at 69.

³⁷ G.R. Nos. 211772 & 212178, April 18, 2023 [Per SAJ Leonen, *En Banc*].

may be obtained before the lower courts,³⁸ it was never intended to be an iron clad rule.³⁹ Over the years, this Court has thus recognized the following exceptions:

(1) *when genuine issues of constitutionality are raised that must be addressed immediately*; (2) when the case involves transcendental importance; (3) when the case is novel; (4) *when the constitutional issues raised are better decided by this Court*; (5) *when time is of the essence*; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) *when the order complained of was a patent nullity*; and (10) when the appeal was considered as an inappropriate remedy.⁴⁰ (Emphasis in the original; emphasis supplied; citations omitted)

In the present case, direct recourse before this Court was warranted. A preliminary examination of the questioned Orders evince that they are patently null and void for having been issued beyond the jurisdiction of the RTC. As will be expounded upon in subsequent discussion, the resolution of matters pertaining to the probate of a will and distribution or partition of an estate was beyond its ambit in an ordinary civil case such as the one at bench.

In the same vein, the Court shall offer Cipriano, Jr. et al. reprieve from the lack of proof of Cipriano, Jr.'s authority to cause the preparation of the Petition and to sign the verification and certification of non-forum shopping on behalf of the estate of Rosalinda. As held by this Court in *Fernandez v. Villegas*,⁴¹ the verification of a pleading is only a formal, not a jurisdictional requirement intended to secure the assurance that the matters alleged in a pleading are true and correct. The courts may simply order the correction of the pleadings or act on them and waive strict compliance with the rules.⁴²

So, too, *Fernandez* enunciated that under reasonable or justifiable circumstances – as in this case where Cipriano, Jr. and Rosalinda share a common interest and a common cause of action or defense – the rule requiring all plaintiffs or petitioners to sign the certification against forum shopping may be relaxed.⁴³ Similar to the rules on verification, the rules on forum shopping are designed to promote and facilitate the orderly administration of justice; hence, it should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objectives.⁴⁴

³⁸ See *id.* at 18. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

³⁹ *Id.* at 19.

⁴⁰ *Id.*

⁴¹ 741 Phil. 689 (2014) [Per J. Perlas-Bernabe, Second Division].

⁴² See *id.* at 700. (Emphasis in the original)

⁴³ *Id.*

⁴⁴ *Id.*

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Considering the obvious nullity of the challenged RTC Orders and Cipriano, Jr. et al.'s common interest to secure a judicial declaration to that effect, the Court sees no necessity to belabor this point except to reiterate its stance that "rules of procedure **must always yield** to substantive law." The Rules are not intended to subvert or override substantive law, but to operationalize and effectuate the same.⁴⁵

Having traversed the procedural matters, the Court shall now proceed to rule on the substantive issues raised in the Petition.

This Court's approach to adjective law takes a distinct turn in the realm of testamentary succession, wherein the formalities of a will and the rules governing probate proceedings are treated with exacting precision.

Death renders the decedent unable to testify as to the authenticity and due execution of the will.⁴⁶ Accordingly, testamentary formalities act as a *protective* measure, shielding testators against coercion or undue influence by those involved in the will-making process, or against fraudulent attempts to pass off a forgery as the testator's authentic will.⁴⁷ Equally, they are *cautionary*, alerting testators to the significance of their actions and guarding against their own potential errors.⁴⁸ The proof of the formalities therefore substitutes as the legal guarantee that the document purporting to be a will is indeed authentic, and that it was duly executed by the decedent.⁴⁹

Probate is the legal mechanism through which the authenticity of a will is ascertained. It is required before any will can have force or validity⁵⁰ as "[n]o will shall pass either real or personal property unless it is proved and allowed in accordance with the Rules of Court."⁵¹

Rule 76, Section 1 of the Rules of Court prescribes that an action for the allowance or the disallowance of a will shall come in the form of a petition filed by the executor, devisee, or legatee named in a will, or any other person interested in the estate before the court having jurisdiction to have the will allowed. The succeeding sections of the same Rule then enumerate the

⁴⁵ See *Dr. Treyes v. Larlar*, 882 Phil. 505, 555 (2020) [Per J. Caguioa, *En Banc*]. (Emphasis in the original; citation omitted)

⁴⁶ See *Gaspi v. Judge Pacis-Trinidad*, 890 Phil. 819, 830 (2020) [Per J. Leonen, Third Division].

⁴⁷ Kenneth G. Creid, *Comparative Succession Law*, Vol. I, Testamentary Formalities 468 (2011) available at https://www.flprobatelitigation.com/wp-content/uploads/sites/206/2019/12/Comparative_Succession_Law.pdf?cfchlrttk=NMp6YPbUiD8FM9Fug.W4ZAflqiHcbzsrNIO08awUFA-1731915524-1.0.1.1-0rC1915RzqwGARy76l8Y79RoJoMfivJjZjlubXvXLm0 (last accessed on January 19, 2025)

⁴⁸ *Id.*

⁴⁹ *Gaspi v. Pacis-Trinidad*, 890 Phil. 819, 830 (2020) [Per J. Leonen, Third Division].

⁵⁰ *In re Akana*, G.R. No. 269883, May 13, 2024 [Per J.Y. Lopez, Second Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

⁵¹ CIVIL CODE, art. 838.

required contents of such petition,⁵² set forth the publication requirements,⁵³ and specify the persons who shall be notified of its filing.⁵⁴

Here, the subject Motion to Approve Last Will bears little resemblance to the Petition contemplated under Rule 76. Glaringly, it was filed not as an independent special proceeding but as a mere incident to an ordinary civil action. The Motion also failed to meet the stringent requirements regarding content, publication, and notice provided under said rule. Otherwise stated, the RTC ought to have denied the Motion outright. Its decision to grant the same, under the pretext of avoiding multiplicity of suits and further inconvenience to the parties, was in clear excess of its jurisdiction.

Withal, the flaw in the RTC's ruling extends beyond its grant of an inappropriate Motion to Approve Last Will; it also lies in the scope of the RTC's jurisdiction. At this point in the proceedings, the RTC's jurisdiction was limited to ordering the execution of its final and executory judgment, in accordance with Rule 39 of the Rules of Court. In *Kukan International Corp. v. Hon. Judge Reyes*,⁵⁵ this Court elaborated on the scope of a judgment court's supervisory control over the execution of its decisions, thus:

A case in which an execution has been issued is regarded as still pending so that all proceedings on the execution are proceedings in the suit. There is no question that the court which rendered the judgment has a general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution.

⁵² **SEC. 2. Contents of petition.** — A petition for the allowance of a will must show, so far as known to the petitioner:

- (a) The jurisdictional facts;
- (b) The names, ages, and residences of the heirs, legatees, and devisees of the testator or decedent;
- (c) The probable value and character of the property of the estate;
- (d) The name of the person for whom letters are prayed;
- (e) If the will has not been delivered to the court, the name of the person having custody of it.

But no defect in the petition shall render void the allowance of the will, or the issuance of letters testamentary or of administration with the will annexed.

⁵³ **SEC. 3. Court to appoint time for proving will. Notice thereof to be published.** — When a will is delivered to, or a petition for the allowance of a will is filed in, the court having jurisdiction, such court shall fix a time and place for proving the will when all concerned may appear to contest the allowance thereof, and shall cause notice of such time and place to be published three (3) weeks successively, previous to the time appointed, in a newspaper of general circulation in the province.

But no newspaper publication shall be made where the petition for probate has been filed by the testator himself.

⁵⁴ **SEC. 4. Heirs, devisees, legatees, and executors to be notified by mail or personally.** — The court shall also cause copies of the notice of the time and place fixed for proving the will to be addressed to the designated or other known heirs, legatees, and devisees of the testator resident in the Philippines at their places of residence, and deposited in the post office with the postage thereon prepaid at least twenty (20) days before the hearing, if such places of residence be known. A copy of the notice must in like manner be mailed to the person named as executor, if he be not the petitioner; also, to any person named as co-executor not petitioning, if their places of residence be known. Personal service of copies of the notice at least ten (10) days before the day of hearing shall be equivalent to mailing.

If the testator asks for the allowance of his own will, notice shall be sent only to his compulsory heirs.

⁵⁵ 646 Phil. 210 (2010) [Per J. Velasco, Jr., First Division].

We reiterated the above holding in *Javier v. Court of Appeals* in this wise: “The said branch has a general supervisory control over its processes in the execution of its judgment with a right to determine every question of fact and law which may be involved in the execution.”

.....

It is an elementary principle of procedure that the resolution of the court in a given issue as embodied in the dispositive part of a decision or order is the controlling factor as to settlement of rights of the parties. **Once a decision or order becomes final and executory, it is removed from the power or jurisdiction of the court which rendered it to further alter or amend it. It thereby becomes immutable and unalterable and any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose. An order of execution which varies the tenor of the judgment or exceeds the terms thereof is a nullity.**⁵⁶ (Emphasis in the original)

Mindful of these parameters, the resolution of issues regarding the settlement of Sebastiana’s estate – matters wholly unrelated to the execution of the decision regarding the annulment case – was in palpable excess of its jurisdiction. Without jurisdiction, the impugned Orders issued by the RTC can neither be the source of any right nor the creator of any obligation.⁵⁷ Therefore, all acts performed pursuant to it and all claims emanating from it have no legal effect.⁵⁸

Given the foregoing discourse, the Court holds and so rules to grant the instant Petition and to set aside the assailed RTC Orders for being null and void.

FOR THESE REASONS, the Petition for *Certiorari* is **GRANTED**. The October 14, 2020 and November 22, 2020 Orders of Branch 1, Regional Trial Court, Tagum City, Davao del Norte, in Civil Case No. 4224 are declared **NULL** and **VOID**.

SO ORDERED.


JAPAR B. DIMAAMPAO
Associate Justice

⁵⁶ *Id.* at 225.

⁵⁷ *See Mazy’s Capital, Inc. v. Republic*, G.R. No. 259815 [Formerly UDK 17421], August 5, 2024 [Per J. Caguioa, Third Division].

⁵⁸ *Id.* at 17. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

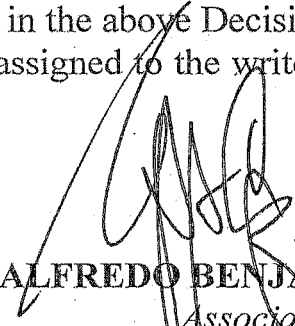


SAMUEL H. GAERLAN
Associate Justice

On leave
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

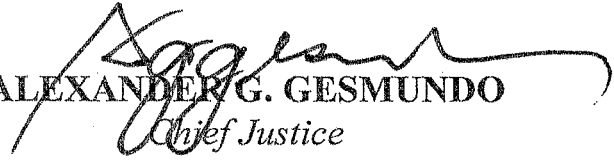
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court.



ALEXANDER G. GESMUNDO
Chief Justice