



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 1, 2020, which reads as follows:

“G.R. No. 247411 (*Philippine National Bank vs. Josephine Pahamotang, Susana Pahamotang-Zamora, and Eleonor Pahamotang-Basa*). – This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Resolutions dated January 21, 2019² and April 20, 2019³ of the Court of Appeals (CA) in CA-G.R. SP No. 09123-MIN which dismissed the Petition for *Certiorari* under Rule 65 filed out of time by herein petitioner Philippine National Bank (PNB).

Facts of the Case

Melitona L. Pahamotang (Melitona) died on July 1, 1972. She was survived by her husband, Agustin, and children, namely: Ana, Genoveva, Isabelita, Corazon, Susana, Concepcion and herein respondents Josephine, Susana, and Eleonor. A petition for the issuance of letters of administration over the estate of Melitona was filed by Agustin on September 15, 1972 with the Court of First Instance (CFI) of Davao City, Branch VI (intestate court), docketed as SP Case No. R-1792. The petition was granted on December 7, 1972.⁴

On July 6, 1973, Agustin and PNB executed an Amendment of Real and Chattel Mortgages with Assumption of Obligation. It appears that earlier, or on December 14, 1972, the intestate court approved the mortgage to PNB of certain assets of the estate to secure an obligation in the amount of ₱570,000.00.⁵ On October 22, 1974, another Real Estate Mortgage (REM) was executed by PNB and Agustin in the amount of ₱4.50 million secured by Transfer Certificate of Title (TCT) Nos. T-21132, T-37786, and T-43264.

¹ Rollo, pp. 26-47.

² Penned by Associate Justice Loida S. Posadas-Kahulugan, with the concurrence of Associate Justices Edgardo A. Camello and Tita Marilyn Payoyo-Villordon; id. at 48-54.

³ Id. at 55-61.

⁴ Id. at 29.

⁵ Offered as securities were 12 parcels of registered land, *i.e.*, TCT Nos. 2431, 7443, 8035, 11465, 21132, 4038, 24327, 24326, 31226, and 37786 all of the Register of Deeds of Davao City, and TCT Nos. (3918) 1081 and T-(2947 562) of the Register of Deeds of Davao Del Norte and Davao Del Sur, respectively.

As the monetary obligation secured by the mortgages was unpaid, a petition for extrajudicial foreclosure was filed by PNB and the latter was able to foreclose the mortgage in its favor.⁶

Herein respondents assailed the validity of the mortgage contracts executed by Agustin with PNB and the foreclosure proceedings, as well as the contracts of sale⁷ entered into by their father. They filed a complaint for Nullification of Mortgage Contracts and Foreclosure Proceedings and Damages against Agustin, PNB, et al., before the Regional Trial Court of Davao City, Branch 12, docketed as Civil Case No. 16802.⁸

In a Decision dated August 7, 1998, the RTC declared the mortgage contracts, as well as the foreclosure proceedings, void insofar as it affects the share, interests and property rights of respondents, but valid with respect to the other parties.⁹ This Decision was elevated to the CA which granted the appeal.¹⁰ The Court, however, reversed the Decision of the CA and affirmed the Decision dated August 7, 1998 of the RTC.¹¹ The Decision¹² dated March 31, 2005 of the Court became final and executory and an Entry of Judgment¹³ was issued.

On June 5, 2012, a Petition to Declare the Real Estate Mortgages Null and Void was filed by respondents in SP Case No. R-1792 (intestate court) now pending in the RTC of Davao City, Branch 11.¹⁴

In an Order dated October 2, 2012, the intestate court granted the petition declaring the REMs dated July 6, 1973 and October 22, 1974 as null and void and ordering the Register of Deeds (RD) of Davao City to cancel the titles of the vendees/buyers of the properties belonging to the estate of the late Melitona insofar as those included in the REMs dated July 6, 1973 and October 22, 1974 are concerned. PNB moved for reconsideration but it was denied in the Order dated July 31, 2013. PNB filed an appeal, however, its appeal was disallowed by the RTC. Hence, it filed a Petition for *Certiorari* before the CA.

On May 12, 2017, the CA granted in part the petition and declared null and void the Orders dated October 2, 2012 and July 31, 2013 of the RTC.¹⁵ The CA ruled that respondents cannot file another action to annul the REMs after a final judgment has already been rendered partially annulling the same in a previous action (*i.e.*, Civil Case No. 16802) involving the same

⁶ Rollo, pp. 29-30.

⁷ It appears that Agustin was able to sell estate properties to Arturo Arguna and Pahamotang Logging Enterprise, Inc. (PLEI).

⁸ Rollo, p. 65.

⁹ Id. at 65-66.

¹⁰ Id. at 66.

¹¹ Id.

¹² Id. at 159-179.

¹³ Id. at 180.

¹⁴ Id. at 31.

¹⁵ Id. at 63-76.

parties and subject matter. The CA stated that the RTC (intestate court) gravely erred when it took cognizance of the petition, when the same is already barred by *res judicata*. The Court affirmed the Decision of the CA in the Resolution¹⁶ dated January 31, 2018 which became final and executory on August 1, 2018.¹⁷

In the interim or during the pendency of PNB's petition before the CA, the intestate court issued an Order¹⁸ dated November 22, 2016 directing the issuance of a writ of execution to enforce the Order dated October 2, 2012. The RTC stated that the Order of October 2, 2012 as modified by the Order of July 31, 2013 was already final and executory for failure of PNB to appeal through the proper mode of appeal in special proceedings. Respondents, likewise, filed an *Ex-Parte* Motion to Direct the Register of Deeds to Cancel Titles.

Ruling of the Regional Trial Court

On September 14, 2018,¹⁹ the RTC granted the *Ex-Parte* Motion and ordered the RD of Davao City to comply with the writ of execution dated November 25, 2016 to cancel the following titles: TCT No. T-296975, TCT No. T-250415, TCT No. T-357298, TCT No. T-322481, TCT No. T-322487, TCT No. T-128776, TCT No. T-172633, TCT No. T-357297, TCT No. T-322482, TCT No. T-322483, TCT No. T-322484, TCT No. T-322485, and TCT No. T-322486, without the presentation and/or despite absence or failure to surrender the owner's duplicate copies of these titles, and in lieu thereof, to issue new transfer certificates of title, in the name of the estate of the late Melitona.

PNB moved for reconsideration but it was denied in the Order dated October 12, 2018.²⁰

A Petition for *Certiorari* and Prohibition under Rule 65 was thereafter filed by PNB before the CA.

Ruling of the Court of Appeals

On January 21, 2019, the CA resolved to dismiss the Petition for *Certiorari* and Prohibition in view of the following defects: the docket fees paid is short by ₱1,500.00; PNB failed to furnish the RD of Davao City with a copy of the petition; the date of filing of the motion for reconsideration to the assailed Order dated September 14, 2018 is not indicated in the petition; and Imelda V. Sepe, who signed the Verification and Certification of Non-Forum Shopping, failed to show competent evidence of identity as affiant

¹⁶ Id. at 77.

¹⁷ Id. at 78.

¹⁸ Id. at 188-189.

¹⁹ Penned by Presiding Judge Leo Tolentino Madrazo; id. at 79-84.

²⁰ Id. at 94.

thereto.²¹

PNB moved for reconsideration but it was denied in the Order²² dated April 20, 2019. This time, the CA ruled that the petition was filed out of time. PNB has 60 days from October 15, 2018, or until December 14, 2018 within which to file the petition. However, PNB filed the instant petition on December 21, 2018 or seven (7) days late. Thus, even if the CA permits PNB to rectify the defects in its petition, the same must be dismissed for being filed out of time.

Hence, this Petition for Review on *Certiorari* under Rule 45 filed by PNB.

Issues

The issues to be resolved in this case are:

1. Whether the CA correctly dismissed the petition filed out of time; and
2. Whether the intestate court's issuance of the Orders dated September 14, 2018 and October 12, 2018 was proper.

PNB's Arguments

PNB argues that it filed the Petition for *Certiorari* before the CA within the reglementary period, on December 14, 2018 by registered mail. The CA wrongfully took the date December 21, 2018, stamped on the petition, which would appear as the date of receipt by the CA of a copy of the petition. Further, PNB contends that it raised meritorious issues which need to be considered to prevent miscarriage of substantial justice in that a dismissal thereof shall pave way to the enforcement and implementation of Court Orders already declared null and void with finality.²³

Respondents' Comment

Respondents counter that the PNB's petition before the CA was filed not by registered mail but by Domestic Express Mail Service or DEMS. Hence, the date of actual receipt shall be the date of actual filing.²⁴

Ruling of the Court

The petition is granted.

²¹ Id. at 48-54.

²² Id. at 55-61.

²³ Id. at 35-44.

²⁴ Id. at 378-379.

While We agree with the CA that PNB's Petition for *Certiorari* was filed out of time, or seven days late from December 14, 2018,²⁵ the last day of the 60-day reglementary period, this Court cannot just close its eyes to the blatant error committed by the intestate court in issuing the writ of execution, which runs counter to an already final and executory Decision of this Court. This needs to be corrected in this petition, otherwise, a dismissal of PNB's petition on technical grounds will result in an inequitable situation where PNB would be denied its right of ownership over the properties it had foreclosed and registered in its name.

True, procedural rules are essential in the administration of justice. However, this Court has relaxed the observance of procedural rules to advance substantial justice. In the exercise of its equity jurisdiction, the Court may disregard procedural lapses so that a case may be resolved on its merits. As held in *Malixi v. Baltazar*,²⁶ to wit:

Time and again, this Court has reiterated the doctrine that the rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the rules' primary objective of enhancing fair trials and expediting justice. Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.²⁷

Records reveal that this Court's Decision²⁸ dated March 31, 2005, which affirmed the RTC's Decision dated August 7, 1998, had become final and executory and an Entry of Judgment²⁹ was already issued. The RTC declared the mortgage contracts, as well as the foreclosure proceedings, void insofar as it affects the share, interests and property rights of respondents, but valid with respect to the other parties. Such decision may no longer be modified or amended. This is the doctrine of finality of judgment. Once a judgment attains finality, it becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and

²⁵ PNB alleged that it received the RTC Order dated October 12, 2018 denying its motion for reconsideration on October 15, 2018. Thus, it has until December 14, 2018 within which to file a petition for certiorari and prohibition to the CA. While it appears that it filed the petition on December 14, 2018, PNB filed the same via express post/mail, *i.e.*, Domestic Express Mail System of the Philpost. Filing thru DEMS is not filing via registered mail. Hence, the petition shall be deemed filed on the date and time of receipt by the Court, which shall be legibly stamped by the receiving clerk on the first page thereof and on the envelope containing the same, and signed by him/her. In this case, the CA received the petition on December 21, 2018, the date stamped on the petition, or seven days late from December 14, 2018.

²⁶ 821 Phil. 423 (2017).

²⁷ *Id.* at 436, citing *Development Bank of the Philippines v. Court of Appeals*, 411 Phil. 121, 136-138 (2001).

²⁸ *Id.* at 159-179.

²⁹ *Id.* at 180.

regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.³⁰ It is grounded on fundamental considerations of public policy and sound practice that, at the risk of occasional errors, the judgments or orders of courts must become final at some definite time fixed by law.³¹ Otherwise, there will be no end to litigations, thus negating the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.³²

Despite this final and executory decision, respondents filed another petition to nullify the REMs, this time in the intestate court. Foremost, the intestate court should have dismissed this petition outright because it has no jurisdiction to render judgment on the petition to nullify the REMs. It cannot resolve the validity or nullity of the REMs or contracts, since an intestate court's jurisdiction is limited only to matters regarding to the settlement of the estate and probate of will of deceased persons.³³ Yet, the intestate court proceeded to rule upon respondents' petition, granting the same in its Order dated October 2, 2012, and declared the REMs dated July 6, 1973 and October 22, 1974 as null and void. The intestate court further ordered the RD of Davao City to cancel the titles of the vendees/buyers of the properties belonging to the estate of the late Melitona insofar as those included in the REMs dated July 7, 1973 and October 22, 1974 are concerned. Worse, during the pendency of PNB's petition before the CA, the intestate court issued the assailed writ of execution dated November 25, 2016 to enforce the Order dated October 2, 2012. It further ordered the RD of Davao City to cancel the TCTs, without the presentation and/or despite absence or failure to surrender the owner's duplicate copies of these titles, and in lieu thereof, to issue new transfer certificates of title, in the name of the estate of the late Melitona.

The glaring nullity of the issuance of the writ of execution cannot be overstated. As above-explained, the Decision of the RTC declaring void the mortgage contracts, as well as the foreclosure proceedings, insofar as it affects the share, interests, and property rights of respondents, but valid with respect to the other parties, had long become final and executory; thus, it may no longer be amended or modified. Hence, the assailed intestate court's Orders issuing the writ, enforcing the same, and cancelling the titles should be nullified in this petition. In fact, the CA in its Decision³⁴ dated May 12, 2017, had already declared null and void the intestate court's Order dated October 2, 2012 on the ground of *res judicata*.³⁵ Indeed, respondents cannot file another action to annul the subject REMs after a final judgment has already been rendered partially annulling the same in a previous action involving the same parties and subject matter. This CA Decision was

³⁰ *Lomondot v. Judge Balindong*, 763 Phil. 617, 627 (2015).

³¹ *Id.*

³² *Id.*

³³ *Pacioles, Jr. v. Chuatoco-Ching*, 503 Phil. 707 (2005).

³⁴ *Rollo*, pp. 63-76.

³⁵ *Id.* at 74-76.

affirmed by this Court in the Resolution³⁶ dated January 31, 2018, which had become final and executory on August 1, 2018.

In fact, the intestate court already acknowledged that the execution of its Orders dated October 2, 2012 and July 31, 2013 has no more leg to stand on in view of the CA's Decision, as affirmed by the Court, declaring said Orders null and void.³⁷ This is reflected in its Order³⁸ dated August 15, 2019 wherein the intestate court denied respondents' Ex-parte Motion to Direct the RD of Digos City to cancel titles, and in its subsequent Order dated October 3, 2019³⁹ denying respondents' motion for reconsideration. These Orders dated August 15, 2019 and October 3, 2019 already corrected and vacated the herein assailed Orders issued by the intestate court dated September 14, 2018 and October 12, 2018.

Although the RTC had already issued the Orders August 15, 2019 and October 3, 2019, there is still a need to declare that the assailed Orders dated September 14, 2018 and October 12, 2018 enforcing the writ of execution and cancelling the titles are null and void having been issued with grave abuse of discretion on the part of the intestate court. Be it noted that what was nullified by the CA, and affirmed by the Court, are the Orders dated October 2, 2012 and July 31, 2013 which granted respondents' petition for nullity of the REMs. It does not cover the herein assailed Orders dated September 14, 2018 and October 12, 2018.

WHEREFORE, premises considered, the instant petition is **GRANTED**. The assailed Resolutions dated January 21, 2019 and April 20, 2019 of the Court of Appeals in CA-G.R. SP No. 09123-MIN are hereby **SET ASIDE**. The Orders dated September 14, 2018 and October 12, 2018 of the Regional Trial Court of Davao City, Branch 11 are hereby **NULLIFIED**.

SO ORDERED."

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

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³⁶ Id. at 77.

³⁷ Id. at 365-370.

³⁸ Id. at 373-374.

³⁹ Id. at 375-376.

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