



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 19, 2022 which reads as follows:

“G.R. No. 243254 (Puerto Princesa Baptist Church, Inc., represented by Rev. Gideon Umandap, Petitioner vs. Rev. James D. Antonio and Rev. Agustin J. Tablazon,* Respondents).

This petition for review on *certiorari* seeks to reverse and set aside the June 18, 2018 Decision¹ and November 15, 2018 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 152322. The CA affirmed the January 4, 2017 and June 27, 2017 Orders³ of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 48 (RTC), in Civil Case No. 5233,⁴ which dismissed the Amended Complaint for Revocation/Annulment of Deed of Donation filed by Puerto Princesa Baptist Church, Inc. (PPBCI) on the grounds of prescription and failure to implead indispensable parties.

Antecedents

This case stems from a complaint by PPBCI for revocation/annulment of a deed of donation against Reverend (Rev.) James D. Antonio (Antonio) and Rev. Agustin J. Tablazon (Tablazon; collectively, *respondents*). PPBCI alleged that it is the registered owner of four parcels of land in Puerto Princesa City, Palawan,

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59-A

* Also referred to as “Augustine Tablazon,” Agustine Tablazon” and “Augustin Tablazon” in some parts of the *rollo* (see *rollo*, p. 126; CA *rollo*, pp. 124 and 126).

¹ *Rollo*, pp. 31-35; penned by Associate Justice Jose C. Reyes, Jr. (now a retired Member of the Court), with Associate Justices Maria Elisa Sempio Diy and Pablito A. Perez, concurring.

² *Id.* at 37-39; penned by Associate Justice Pablito A. Perez, with Associate Justices Marlene Gonzales-Sison and Maria Elisa Sempio Diy, concurring.

³ *Id.* at 122-125 and 126-128, respectively; penned by Judge Leah E. De Los Reyes-Baguyo.

⁴ Also referred to as Civil Case No. 5223 in some parts of the *rollo* (see *rollo*, pp. 31 and 122).

covered by Transfer Certificate of Title (*TCT*) Nos. 2344, 2345, 2346, and 2347 (*subject properties*). Being then the pastor of PPBCI, Tablazon had custody of the titles.⁵

Sometime in July 1980, Tablazon asked his nephew and successor, Rev. Ariel Macolor (*Macolor*), to affix his signature on a prepared Deed of Donation,⁶ wherein PPBCI would supposedly donate the subject properties to Palawan Christian Student Center (*PCSC*). Macolor signed the deed of donation for PPBCI, while Tablazon signed for PCSC, in his capacity as Chairman of the Board of Trustees of PCSC. The deed of donation was not registered with the Registry of Deeds of Puerto Princesa City.⁷

In 2008, some members of the PPBCI inquired about the certificates of title of the subject properties. Despite diligent efforts, they could not locate said titles. Tablazon informed PPBCI in a conference that the titles were in his possession, but he refused to surrender the same to PPBCI.⁸

Upon investigation, PPBCI discovered the execution of the deed of donation by Macolor and Tablazon. On September 3, 2010, Macolor executed a Revocation of Deed of Donation.⁹ Macolor admitted that PPBCI and its board of trustees did not consent to the transaction and that he merely affixed his signature on the prepared document. On February 20, 2014, Macolor executed an Affidavit¹⁰ stating that, at the time he signed the deed, he was not aware that the document was in fact a deed of donation. He also admitted that he did not personally appear before the notary public who notarized the deed.

PPBCI again demanded Tablazon to surrender the titles. Tablazon refused, and instead turned over the titles to Antonio, who also refused to return the titles to PPBCI.¹¹ Thus, PPBCI filed a complaint for revocation/annulment of the deed of donation against respondents Tablazon and Antonio. An Amended Complaint¹² was subsequently filed and admitted by the RTC.

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59-A

⁵ *Rollo*, p. 32.

⁶ *CA rollo*, pp. 100-102.

⁷ *Rollo*, p. 32.

⁸ *Id.*

⁹ *CA rollo*, p. 123.

¹⁰ *Id.* at 124.

¹¹ *Rollo*, p. 32.

¹² *Id.* at 171-189; docketed as Civil Case No. 5233.

For their part, respondents filed a Motion to Dismiss¹³ on the ground of failure to implead indispensable parties. They contended that they were not real parties-in-interest since there was no allegation in the complaint that they are the new owners of the subject properties by virtue of the deed of donation. They averred that, since PCSC lost its juridical personality in 2003, PPBCI should have impleaded the board members of PCSC as party-defendants, being PCSC's successors-in-interest.

The RTC Ruling

In its January 4, 2017 Order, the RTC granted respondents' motion and dismissed the amended complaint.¹⁴ The trial court held that PCSC, as the alleged donee of the subject property, is the indispensable party to the case. However, by virtue of the termination of PCSC's corporate existence, the members to whom its corporate properties were transmitted now become the indispensable parties with respect to such properties. The RTC ruled that the amended complaint failed to disclose such indispensable parties to the case, without which, it could not proceed.¹⁵

The RTC also held that the action in this case is based upon a written contract: the deed of donation. While it may be true that Macolor had no authority to execute the deed, the RTC pointed out that actions upon a written contract must be brought within 10 years from the time the right of action accrues. Unfortunately, PPBCI filed the complaint more than 35 years from the execution of the deed of donation on July 14, 1980. Thus, the RTC further ruled that the dismissal of the case was warranted on the ground of prescription.¹⁶

PPBCI filed a Motion for Reconsideration.¹⁷ The RTC denied the motion in an Order dated June 27, 2017, which PPBCI received on July 7, 2017.¹⁸ PPBCI filed a Petition for *Certiorari*¹⁹ under Rule 65 of the Rules of Court before the CA on August 31, 2017.

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59-A

¹³ Id. at 160-163.

¹⁴ Id. at 125.

¹⁵ Id. at 123.

¹⁶ Id. at 124.

¹⁷ Id. at 129-140.

¹⁸ Id. at 69.

¹⁹ Id. at 66-88.

The CA Ruling

In its June 18, 2018 Decision, the CA dismissed the petition, and affirmed the orders of the RTC. It held that the order of dismissal issued by the RTC was a final order since it terminated the proceedings and left nothing more to be done but to enforce the determination of the trial court. The remedy of PPBCI would be to appeal the order of dismissal under Rule 41 of the Rules of Court. Clearly, PPBCI availed of the wrong remedy when it filed a petition for *certiorari*.

The CA also ruled that the RTC orders became final and unappealable due to the lapse of the 15-day period to appeal.

PPBCI filed a motion for reconsideration which the CA denied in its November 15, 2018 Resolution. Hence, this instant appeal.

Issue

Whether the CA erred in ruling that PPBCI availed of an improper remedy in assailing the RTC's dismissal of its complaint.

PPBCI's Arguments

PPBCI argues that an order acting on a motion to dismiss is interlocutory, and thus, not appealable. The dismissal by the RTC herein was for failure to implead indispensable parties, which is not a ground to dismiss a complaint. This does not dispose of the case completely considering that the court *a quo* may still order indispensable parties to be impleaded. Thus, its resort to *certiorari* with the CA was proper.

Further, the RTC exceeded its jurisdiction when it dismissed the complaint on the ground of prescription even if it was not raised as a ground in respondents' motion to dismiss. PPBCI also contends that its right of action is imprescriptible since the deed of donation is void *ab initio*, as neither Macolor nor Tablazon had authority to act on behalf of the donor and the donee, respectively.

Respondents' Arguments

On the other hand, respondents aver that the dismissal order of the RTC was not interlocutory but final, hence, appealable in accordance with Rule 41 of the Rules of Court. Furthermore, the

dismissal was not issued with grave abuse because PPBCI had been afforded the opportunity to implead the parties the RTC deemed indispensable, but PPBCI adamantly refused to do so based on its unbending stance that there were no other indispensable parties.

Respondents argue that the grounds relied upon by PPBCI for annulment of the donation does not make the contract null and void, but merely unenforceable. Thus, the RTC did not commit grave abuse of discretion in finding that PPBCI's cause of action had already prescribed.

The Court's Ruling

The instant petition is unmeritorious.

The Court agrees with the CA in ruling that the RTC's orders dismissing the amended complaint were final, and not merely interlocutory.

PPBCI's persistent reliance on the Court's pronouncement in *Pacaña-Contreras v. Rovila Water Supply, Inc.*²⁰ is sorely misplaced. The Court, in that case, indeed stated that "an order denying a motion to dismiss is interlocutory."²¹ However, it is patently obvious from this precise line cited by PPBCI, that the situation therein involved the denial of a motion to dismiss, which is starkly different from the situation in the instant case where the motion to dismiss was granted.

The question of whether or not the CA could entertain a petition for *certiorari* over the order of the dismissal of the case by the RTC, is the precise issue resolved in *Abadilla v. Spouses Obrero*.²² Citing the aforementioned case, the CA correctly held that an order of dismissal by the trial court is final and not interlocutory because the proceedings are terminated; it leaves nothing more to be done by the lower court. As such, an order of dismissal is appealable in accordance with Section 1, Rule 41 of the Rules of Court.²³ Where an appeal is available, *certiorari* will not prosper, even if the ground is grave abuse of discretion.²⁴

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59-A

²⁰ 722 Phil. 460 (2013).

²¹ Id. at 470.

²² 775 Phil. 419 (2015).

²³ Id. at 425.

²⁴ *Local Water Utilities Administration Employees Association for Progress v. Local Water Utilities Administration*, 794 Phil. 496, 505 (2016).

It is also settled that *certiorari* is not a substitute for a lost appeal. PPBCI had 15 days from receipt of the order denying their motion for reconsideration to file a notice of appeal. The June 27, 2017 Order of the RTC was received by PPBCI on July 7, 2017, and therefore it had until July 22, 2017 to file its notice of appeal. With the lapse of the period without any appeal having been taken therefrom, the order of dismissal of the RTC became final. When the petition for *certiorari* was filed on August 31, 2017, even if the CA had wanted to relax the rules and treat the same as an ordinary appeal, it could no longer do so because the RTC orders had already become final and immutable.

In *Heirs of Cabrera v. Heirs of Jurado*,²⁵ the Court ruled, thus:

It is settled that a special civil action for *certiorari* under Rule 65 of the Rules of Court is proper only when there is neither an appeal, nor plain, speedy, and adequate remedy in the ordinary course of law. The remedies of appeal and *certiorari* are mutually exclusive, not alternative or successive such that where an appeal is available, *certiorari* will not prosper, even if the ground is grave abuse of discretion. To reiterate, *certiorari* is not a substitute for a lost appeal. It is not allowed when a party to a case fails to appeal a judgment to the proper forum, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse.²⁶

In any case, not all errors attributed to a lower court or tribunal fall under the scope of a Rule 65 petition for *certiorari*.²⁷ It requires not a mere error in judgment, but a grave abuse of discretion amounting to lack of or excess of jurisdiction.²⁸ Grave abuse of discretion is defined as capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.²⁹

Citing rulings of this Court,³⁰ the RTC concluded that when an indispensable party is not before the court, an action should be dismissed because such absence renders all subsequent actions of the

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59-A

²⁵ G.R. No. 235308, May 12, 2021.

²⁶ *Id.*

²⁷ *Republic v. Cote*, 828 Phil. 168, 180 (2018).

²⁸ *Ong v. Bogñalbal*, 533 Phil. 139, 168 (2006).

²⁹ *Ganaden v. Court of Appeals*, 665 Phil. 261, 267 (2011).

³⁰ *Go v. Distinction Properties Development and Construction, Inc.*, 686 Phil. 1160, 1176 (2012), citing *Nagkakaisang Lakas ng Manggagawa sa Keihin v. Keihin Philippines Corporation*, 641 Phil. 300 (2010).

court null and void for want of authority to act, not only as to the absent parties, but even to those present.

The RTC is only partly correct. Indeed it remains essential, as it is jurisdictional, that any indispensable party be impleaded in the proceedings before the court renders judgment.³¹ However, as correctly pointed out by PPBCI, in case of non-joinder of indispensable parties, the proper remedy is for the court to order the joinder of such parties. It is when the plaintiff refuses to comply with the court's order that the complaint may be dismissed.³²

Respondents point out – and this was not disputed by PPBCI – that during the hearing on the motion to dismiss, the RTC had already intimated that PCSC was an indispensable party who should be impleaded. Even after the RTC issued its January 4, 2017 Order dismissing the case, PPBCI in moving for reconsideration therefrom, did not ask to be allowed to implead PCSC or its successors-in-interest, but instead remained steadfast in insisting that there were no other indispensable parties aside from respondents herein.

Thus, despite the RTC's procedural misstep, in view of the legal justification it provided and the circumstances surrounding the dismissal itself, the Court does not find such error to be so capricious, whimsical, arbitrary or despotic as to amount to grave abuse of discretion.

Lastly, the Court cannot agree with PPBCI's stance that the RTC exceeded its jurisdiction by also dismissing the complaint due to prescription, a ground not raised in the motion to dismiss. As the RTC pointed out in its Order dated January 4, 2017, a court may dismiss a complaint *motu proprio* when it is barred by the statute of limitations. Sec. 1, Rule 9 of the Rules of Court reads:

SECTION 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that x x x the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

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59-A

³¹ *Technical Education and Skills Development Authority v. Abragar*, G.R. No. 201022, March 17, 2021.

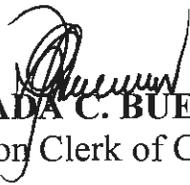
³² See *Spouses Laus v. Optimum Security Services, Inc.*, 780 Phil. 412, 423 (2016).

As to PPBCI's claim that its right of action is imprescriptible, the Court remains unconvinced. The RTC held that the complaint assails the validity of the deed of donation on the ground that it was executed by a person without authority from the Board of Trustees of PPBCI. Contracts entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, are merely unenforceable.³³ Certainly, the RTC cannot be faulted – much less found to have committed grave abuse of discretion – in not subscribing to PPBCI's theory that the donation is absolutely null and void.

WHEREFORE, premises considered, the petition is hereby **DENIED**. The June 18, 2018 Decision and November 15, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 152322 are **AFFIRMED**.

SO ORDERED.” *Gaerlan, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA,
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
59-A

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(Civil Case No. 5223)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court

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³³ New Civil Code, Article 1317. See also Article 1403(1).

