



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 6, 2022 which reads as follows:

“G.R. No. 249266 (*Rolando Sy, petitioner vs. Court of Appeals, Jose Sy Bang+ and his wife, Iuminada Tan+, Zenaida Sy Tam,¹ Maria Emma Sy Bang, and Rosa Tan, respondents*). – Before us is a petition for *certiorari* under Rule 65 seeking to reverse and set aside the April 5, 2019 Decision² and July 26, 2019 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP Nos. 153295 and 153519, and praying for the implementation of the final and executory decision of this Court dated October 13, 2009 in G.R. No. 114217.⁴ The CA annulled and set aside the Orders dated September 1, 2015⁵ and July 18, 2017⁶ of the Regional Trial Court, Lucena City, Branch 56 (RTC), in Civil Case No. 8578 which granted the motion for execution filed by the petitioner.

Antecedents

The background of this case is culled from the narration of facts in *Heirs of Jose Sy Bang v. Sy*.⁷

Rolando Sy (*petitioner*), together with his siblings Rosalino (*Rosalino*), Lucio, Enrique (*Enrique*), Rosauero (*Rosauero*), Bartolome (*Bartolome*), Julieta, Lourdes, and Florecita, all surnamed Sy

¹ Also referred to as Zenaida Tan in other parts of the *rollo* (*rollo*, pp. 4 and 42).

² *Id.*, at 40-67; penned by Associate Justice Stephen C. Cruz, with Associate Justices Pedro B. Corales and Ruben Reynaldo G. Roxas, concurring.

³ *Id.* at 69-72.

⁴ *Heirs of Jose Sy Bang v. Sy*, 618 Phil. 545 (2009).

⁵ *Rollo*, pp. 73-97; penned by Presiding Judge Dennis R. Pastrana.

⁶ *Id.* at 133-142.

⁷ *Supra* note 4.

(collectively, the co-heirs of the second marriage), are the children of Sy Bang and Rosita Ferrera-Sy (*Rosita*). Sy Bang's first wife was Ba Nga, with whom he has the following children: respondent Jose Sy Bang (*Jose*), Julian Sy (*Julian*), Oscar Sy, and Renato Sy⁸ (collectively, the co-heirs of the first marriage). Respondent Rosa Tan (*Rosa*) is the wife of Julian, while respondent Iluminada Tan (*Iluminada*) is Jose's wife, and respondents Zenaida Sy Tam (*Zenaida*) and Ma. Emma Sy (*Ma. Emma*) are their children.⁹

Sy Bang died intestate in 1971, leaving behind real and personal properties, including several businesses.¹⁰

On May 28, 1980, petitioner filed a complaint for partition against his siblings, his mother Rosita, and his half-siblings, together with respondents Iluminada, Zenaida and Ma. Emma, and Rosa, before the then Court of First Instance of Quezon, Branch 2, docketed as Civil Case No. 8578.¹¹

During an out-of-court conference, the parties agreed that the management, supervision or administration of the common properties and/or the entire estate of the deceased Sy Bang shall be temporarily placed in the hands of Jose, as trustee. Jose delegated the function of bookkeeping to Julian, while the duties of management and operation of the cinemas owned in common by the heirs of Sy Bang were delegated to Rosauero.¹²

The heirs further agreed that the income of the three cinema houses shall exclusively pertain to the co-heirs of the second marriage for their support and sustenance pending the determination of Civil Case No. 8578 for judicial partition, and the income from the vast parts of the entire estate and other businesses of their common father, to pertain exclusively to the co-heirs of the first marriage.¹³

The trial court – which was later reorganized into a regional trial court – rendered its first partial decision and second partial

⁸ *Rollo*, p. 489 (Renato Sy was mentioned in the dispositive portion of the Third Partial Decision dated June 8, 1982 in Civil Case No. 8578 as one of the heirs of Sy Bang, being one of his children by his first wife).

⁹ *Id.* at 42.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 9.

¹² *Id.* at 8-9.

¹³ *Id.* at 9.

decision on March 30, 1981 and April 2, 1981, respectively. These two partial decisions had long become final, without an appeal having been interposed by any of the parties.¹⁴

On June 8, 1982, the trial court rendered a Third Partial Decision,¹⁵ the dispositive portion of which reads:

WHEREFORE, the Court hereby renders this Third Partial Decision:

(a) Declaring that all properties, businesses or assets, their income, produce and improvements, as well as all the rights, interests or participations (sic) in the names of defendants Jose Sy Bang and his wife Iluminada Tan and their children, defendants Zenaida and Ma. Emma; both surnamed Sy, and defendants Julian Sy and his wife Rosa Tan, as belonging to the estate of Sy Bang, including the properties in the names of said defendants which are enumerated in the Complaints in this case and all those properties, rights and interests which said defendants may have concealed or fraudulently transferred in the names of other persons, their agents or representatives;

(b) Declaring the following as the heirs of Sy Bang, namely: his surviving widow, Maria Rosita Ferrera-Sy and her children, Enrique, Bartolome, Rosalino, Rolando, Rosauero, Maria Lourdes, Florecita and Julieta, all surnamed Sy, and his children by his first wife, namely: Jose Sy Bang, Julian Sy, Lucio Sy, Oscar Sy and Renato Sy;

(c) Ordering the partition of the Estate of Sy Bang among his heirs entitled thereto after the extent thereof shall have been determined at the conclusion of the proper accounting which the parties in this case, their agents and representatives, shall render and after segregating and delivering to Maria Rosita Ferrera-Sy her one-half (1/2) share in the conjugal partnership between her and her deceased husband Sy Bang;

(d) Deferring resolution on the question concerning the inclusion for partition of properties in the names of Rosalino, Bartolome, Rolando and Enrique, all surnamed Sy.

SO ORDERED.¹⁶

¹⁴ Id. at 43.

¹⁵ Id. at 464-489, penned by Judge Benigno M. Puno.

¹⁶ Id. at 488-489.

Respondents' motions to inhibit Judge Benigno M. Puno (*Judge Puno*) from presiding over the case, were denied by the latter on August 16, 1982. Subsequently on August 17, 1982, the trial court issued an order appointing a certain Lucita Sarmiento (*Sarmiento*) as receiver, and on even date, issued another order cancelling the *lis pendens* annotated on the certificates of title in the names of Bartolome, Rosalino, and petitioner. On August 18, 1982 the trial court approved the bonds posted by Sarmiento, Bartolome, Rosalino, and petitioner.¹⁷

Meanwhile, respondents filed a petition for *certiorari* and prohibition before this Court, which was docketed as G.R. No. 61519, seeking to enjoin Judge Puno from taking any action in Civil Case No. 8578, and likewise, to restrain the effectivity of and compliance with the issuances of the trial court covering the period, from August 16 to 18, 1982.¹⁸

We referred the petition to the CA for proper determination and disposition. In its Decision dated May 6, 1993, the CA denied the petition and held that Judge Puno acted correctly in issuing the third partial decision. Respondents' motion for reconsideration was subsequently denied.¹⁹

G.R. No. 114217

On May 9, 1996, Rosita filed before this Court a motion for payment of widow's allowance, alleging that since the time of Sy Bang's death in 1971, she was not given any widow's allowance, pursuant to Section 3, Rule 83 of the Rules of Court, by the parties in possession and control of her husband's extensive estate, or her share in the conjugal partnership.²⁰

Respondents argued that Sec. 3, Rule 83 of the Rules of Court specifically provides that the payment of widow's allowance is granted only "during the settlement of the estate" of the decedent, and this allowance, under Article 188 of the Civil Code (now Art. 133 of the Family Code), shall be taken from the "common mass of property"

¹⁷ Id. at 44.

¹⁸ Id. at 44-45.

¹⁹ Id. at 45.

²⁰ Id. at 434-435.

during liquidation of the inventoried properties. Respondents maintained that Rosita cannot be given widow's allowance since the case before the trial court is a special civil action for partition under Rule 69 of the Rules of Court, and not the settlement of estate of Sy Bang.²¹

On September 23, 1996, this Court granted the motion for payment of widow's allowance and ordered respondents jointly and severally to pay Rosita the amount of ₱25,000.00 as monthly widow's allowance to be taken from the estate of Sy Bang, effective September 1, 1996 and every month thereafter until the estate is finally settled or until further orders from this Court.²²

Respondents filed a motion for reconsideration, but the same was denied by this Court on November 18, 1996. Thereafter, respondents filed with the Court a Petition for Review under Rule 45 of the Rules of Court, and was docketed as G.R. No. 114217.²³

G.R. No. 150797

In the meantime, the co-heirs of the second marriage filed a joint petition for guardianship of the incompetent Rosita Ferrera-Sy before the RTC of Lucena City, Branch 58 (guardianship court), docketed as Special Proceedings No. 96-34. Rosauo filed a motion to order court deposit of widow's allowance to be given to Rosita in consonance with the directive of the Supreme Court.²⁴

On July 8, 1997, the guardianship court issued an Order, the dispositive portion of which reads:

WHEREFORE, Mr. Jose Sy Bang and his wife Iluminada Tan; and their children, Zenaida Sy and Ma. Emma Sy; and Julian Sy and his wife Rosa Tan, are hereby ordered to deposit to this Court, jointly and severally, the amount of ₱250,000.00 representing the widow's allowance of the incompetent Rosita Ferrera Sy corresponding the (sic) periods from September 1, 1996 to June 30, 1997, and additional amount of ₱25,000.00 per month

²¹ Id. at 435.

²² Id. at 46.

²³ Id. at 437.

²⁴ Id. at 47.

and every month thereafter, within the first ten (10) days of each month.²⁵

Respondents' motion for reconsideration was denied. Rosauero, the appointed guardian, then asked the guardianship court to issue a writ of execution. Respondents elevated the matter to the CA *via* a petition for *certiorari*, which was docketed as CA-G.R. SP No. 46244, wherein they sought for the annulment of the July 8, 1997 Order and October 9, 1997 Resolution of the guardianship court. In its Decision dated February 28, 2001, the CA ruled that there was nothing legally objectionable in Rosauero's motion to order the deposit of the widow's allowance ordered by this Court in G.R. No. 114217, or in the grant thereof by the guardianship court.²⁶

With the denial of their motion for reconsideration, respondents filed before this Court a petition for review under Rule 45 of the Rules of Court, which was subsequently docketed as G.R. No. 150797.²⁷

Meanwhile, Jose died on September 11, 2001, leaving behind his widow, Iluminada and 14 children, while Julian died on August 28, 2004, leaving behind his widow, Rosa, and their eight children. Petitioner and his siblings moved for the substitution of the deceased by their heirs, which We granted in the Resolution dated July 5, 2006.²⁸

***October 13, 2009 Decision
in G.R. Nos. 114217 & 150797***

G.R. Nos. 114217 and 150797 were consolidated²⁹ and on October 13, 2009, this Court rendered a Decision,³⁰ the dispositive portion of which stated:

WHEREFORE, the foregoing premises considered, the Petition in G.R. No. 150797 is **GRANTED**, while the Petition in G.R. No. 114217 is **DENIED**. The Regional Trial Court of Lucena City is directed to hear and decide Civil Case No. 8578 with

²⁵ Id. at 438.

²⁶ Id. at 439.

²⁷ Id. at 13.

²⁸ Id. at 450.

²⁹ Id. at 440.

³⁰ Id. At 427-463.

dispatch. The Motion to include Rosalino Sy, Bartolome Sy, Rolando Sy, and Heirs of Enrique Sy as Likewise Liable for the Payment of Widow's Allowance as Heirs of Sy Bang is **DENIED**. Treble costs against petitioners.

SO ORDERED.³¹

In G.R. No. 114217, We upheld the third partial decision rendered by the RTC in Civil Case No. 8578, being in the nature of a several judgment under Sec. 4,³² Rule 36 of the Revised Rules of Civil Procedure. The RTC ruled on the status of the properties in the names of the co-heirs of the first marriage while deferring the ruling on the properties in the names of the co-heirs of the second marriage pending the presentation of evidence.³³ Thus, the third partial decision does not have the effect of terminating the proceedings for partition.³⁴

Further, We declared that based on the evidence presented, the RTC could determine whether the properties in the names of petitioner, Rosalino, Bartolome, and Enrique indeed belong to the Sy Bang estate. Only after the full extent of the Sy Bang estate has been determined can the RTC finally order the partition of each of the heirs' share.³⁵

In G.R. No. 150797, however, We ruled that the trial court in Special Proceedings No. 96-34 exceeded its jurisdiction when it ordered the deposit of the widow's allowance. The court hearing the petition for guardianship has limited jurisdiction, and has no power to enforce payment of the widow's allowance ordered by this Court. We held that "the court" referred to in Sec. 3,³⁶ Rule 83 of the Rules of Court obviously refers to the court hearing the settlement of the estate. Also it is clear from Art. 188³⁷ of the Civil Code that the widow's allowance is to be taken from the common mass of property forming

³¹ Id. at 462-463.

³² SEC. 4. *Several judgments*. — In an action against several defendants, the court may, when a several judgment is proper, render judgment against one or more of them, leaving the action to proceed against the others.

³³ *Rollo*, p. 452.

³⁴ Id. at 455.

³⁵ Id. at 452-454.

³⁶ SEC. 3. *Allowance to widow and family*. — The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom, under the direction of the court, such allowance as are provided by law.

³⁷ Art. 188. From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds the fruits or rents pertaining to them.

part of the estate of the decedent. Evidently therefore, it is the court hearing the settlement of the estate that should effect the payment of widow's allowance considering that the properties of the estate are within its jurisdiction, to the exclusion of all other courts.³⁸

We are not persuaded by respondents' argument that Rosita is not entitled to widow's allowance. They theorized that the finding of probable cause for falsification by the Department of Justice (*DOJ*) against the co-heirs of the second marriage for allegedly falsifying the marriage contract between Rosita and Sy Bang would certainly showed that Rosita is a mere common-law wife and thus, not entitled to widow's allowance. We held that the mere finding of probable cause does not conclusively prove the charge of falsification, and would not affect Rosita's right to receive the widow's allowance. In a preliminary investigation, it is settled that a finding of probable cause needs to rest only on evidence showing that more likely than not, a crime has been committed and the same was committed by the suspect/s. Until the marriage between Sy Bang and Rosita is finally declared void, the same is presumed valid, and in the meantime, she is entitled to receive her widow's allowance to be taken from the estate of Sy Bang.³⁹

The Court likewise denied respondents' motion to include petitioner and his co-heirs Rosalino, Bartolome, and the Heirs of Enrique Sy as liable for the payment of widow's allowance. We stressed that the issue of whether the properties in the name of said heirs would form part of the Sy Bang estate, has not yet been resolved by the RTC. The Court pointed out that there was already a categorical pronouncement that respondents were holding properties belonging to the estate of Sy Bang.⁴⁰

In the same decision, the Court deplored the abuse of legal and court processes perpetrated by respondents, who went to extreme lengths to evade complying with the Court's order for payment of the widow's allowance to Rosita. We reminded respondents that they are duty-bound to comply with this Court's orders in connection with the properties under litigation.⁴¹

³⁸ *Rollo*, pp. 458-460.

³⁹ *Id.* at 460-461.

⁴⁰ *Id.* at 461-462.

⁴¹ *Id.* at 462.

***Events and proceedings after the
October 13, 2009 Decision***

Petitioner filed with the RTC of Lucena City, Branch 54, in Civil Case No. 8578, a Motion for Execution dated June 22, 2010, citing the Resolutions dated September 23, 1996 (granting the motion for payment of widow's allowance) and April 4, 2005 (declaring respondents guilty of contempt for refusing to comply with the September 23, 1996 Resolution), and the final and executory decision in G.R. Nos. 114217 and 150797. The motion was denied for the reason that as a Family Court, Branch 54 had no jurisdiction to grant said motion. Petitioner filed a motion for reconsideration, and eventually the case was re-raffled to Branch 56.⁴²

On March 5, 2011, Rosita died.⁴³ Subsequently, the parties filed several motions and memorandum on the issue of the propriety of allowing execution despite Rosita's death and the pendency of criminal cases for falsification that questioned the validity of her marriage to Sy Bang.⁴⁴

The RTC Ruling

In its Order dated September 1, 2015, the RTC resolved the pending incidents, as follows: 1) as the court hearing the settlement of the estate of Sy Bang, it has jurisdiction to order the payment of widow's allowance to Rosita; 2) considering that this Court has long ruled upon the matter, the finding of probable cause for falsification will not affect Rosita's right to receive widow's allowance from the estate of her deceased husband; 3) Rosita's demise did not automatically expunge her right to receive the monthly allowance that had accrued during her lifetime from the time its payment was ordered by this Court up to her death on March 5, 2011; and 4) the absence of an administrator of the estate to take charge of the widow's allowance should not excuse the payment of Rosita's monthly support considering that this Court, in its decision in G.R Nos. 114217 and 150797, specified the persons required to pay the same jointly and

⁴² Id. at 52.

⁴³ Id. at 19.

⁴⁴ Id. at 52-55.

severally, namely: spouses Jose and Iluminada, their children Zenaida and Ma. Emma, and spouses Julian and Rosa.⁴⁵

The RTC thus decreed:

WHEREFORE, foregoing considered, plaintiff's September 26, 2012 Motion for Execution is hereby **GRANTED**. As prayed for, let a Writ of Execution be issued to implement the October 13, 2009 Decision and the Resolutions dated September 23, 1996 and April 4, 2005 of the Supreme Court, and defendants are hereby ordered to deposit with this Court the amount of TWO MILLION NINE HUNDRED FIFTY THOUSAND AND ONE HUNDRED PESOS ([P]2,950,100.00) plus 6% interest thereon per annum until [*sic*] from September 1996 to March 5, 2011 minus whatever amount defendants had already deposited with the Court representing the payment of widow's allowance. The amount so deposited shall form part of the estate of Rosita Ferrera-Sy subject to succession of her legal heirs.

SO ORDERED.⁴⁶

In her Motion for Reconsideration⁴⁷ dated September 22, 2015, Rosa claimed that the death of Rosita had completely changed the nature and context of the widow's allowance, as the same had become a money claim of the estate of Rosita, which can no longer be pursued in the partition case because death extinguished the personality of both Rosita and her guardian. Rosa sought the RTC's intervention to direct interested parties to the intestate proceedings for the appointment of an executor or administrator of the Estate of Rosita Ferrera-Sy who will pursue the widow's allowance as a collectible account or unpaid receivable of the said estate, in accordance with the Rules and jurisprudence, and without prejudice to the pre-condition of the required accounting under Administrative Matter No. 03-02-05-SC. She likewise raised other issues including property and cash contributions allegedly received by Rosita from respondents.⁴⁸

The remaining respondents also filed their Motion for Reconsideration,⁴⁹ dated October 1, 2015, citing certain events that occurred after the October 13, 2009 Decision of this Court was

⁴⁵ Id. at 89-93.

⁴⁶ Id. at 97.

⁴⁷ Id. at 109-117.

⁴⁸ Id. at 115-117.

⁴⁹ Id. at 118-130.

promulgated: the death of Rosita; the ongoing criminal cases questioning the validity of the alleged marriage between Rosita and Sy Bang; and the filing and pendency of the case for quieting of title over parcels of land issued in the name of some of the respondents in this case but which properties are alleged by petitioner to be part of the estate of Sy Bang. These and other established antecedent facts, according to respondents, militate against the execution of payment of widow's allowance.⁵⁰

On July 18, 2017, the RTC issued an Order⁵¹ denying the motions for reconsideration.

Respondents (except for Rosa) filed a Motion for Reconsideration with Motion for Clarification⁵² dated September 13, 2017, claiming that the RTC was silent regarding their allegation of previous payments to Rosita in the form of cash, real property, and post-dated checks. Further, the RTC should specify which properties held by respondents in their names form part of the Sy Bang estate, and should be held answerable for payment of the widow's allowance.⁵³

On the other hand, Rosa filed a Motion to Withhold Writ of Execution Pending Resolution of the Issues Presented by Defendant Rosa Tan in her Motion for Reconsideration dated September 22, 2015 and Rejoinder to Reply of Plaintiff dated January 5, 2017,⁵⁴ which was dated September 22, 2017.

Respondents then filed before the CA petitions for *certiorari* under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 153295 (entitled *Jose Sy Bang and his wife Iuminada Tan, Zenaida Sy Tam and Maria Emma Sy Bang v. Hon. Judge Dennis R. Pastrana and Rolando Sy*)⁵⁵ and CA-G.R. SP No. 153519 (*Rosa Tan v. Hon. Judge Dennis R. Pastrana and Rolando Sy*).⁵⁶

⁵⁰ Id. at 126-128.

⁵¹ Id. at 133-142.

⁵² Id. at 143-153.

⁵³ Id. at 45-47.

⁵⁴ Id. at 155-162.

⁵⁵ Id. at 179-208.

⁵⁶ Id. at 210-240.

The CA Ruling

On April 5, 2019, the CA rendered the assailed decision granting the petitions, as follows:

WHEREFORE, in view of the foregoing premises, the instant consolidated petitions are hereby **GRANTED**. The Orders dated September 01, 2015 and July 18, 2017, respectively, both of the Regional Trial Court (RTC), Branch 56 of Lucena City, in Civil Case No. 8578, [are] **ANNULLED** and **SET ASIDE**.

Private respondent's Motion for Execution is hereby **DISMISSED** for lack of jurisdiction and lack of merit.

SO ORDERED.⁵⁷

The CA held that the RTC has no jurisdiction to hear and resolve respondents' motion for execution, citing this Court's October 13, 2009 Decision which declared that the court hearing the settlement of the estate is the proper forum where the execution of the grant of widow's allowance may be sought, pursuant to Sec. 3, Rule 83 of the Rules of Court.⁵⁸ The main case, Civil Case No. 8578, however, is for partition, hence the RTC cannot rule on such motion for execution.

x x x We hold and so rule that the public respondent trial court has no jurisdiction to try and hear private respondent's motion for execution. To reiterate, the trial court is a partition court and not a settlement court. Even assuming for the sake of argument, that the trial court can assume jurisdiction thereof, the supervening event – the death of Rosita Ferrera-Sy completely changed the context and nature of the widow's allowance, which became a money claim, not in favor of private respondent who is a party-creditor merely seeking reimbursement of his purported advances to the deceased, but a money claim which he can collect on the estate through an administrator appointed by the court in proper proceedings.

All told, public respondent trial court committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it: (i) assumed jurisdiction over private respondent's motion for execution; (ii) recognized private respondent as the proper party to institute the motion for execution; and (iii) granted the

⁵⁷ Id. at 66-67.

⁵⁸ Id. at 59.

motion for execution and issued a writ of execution, all in private respondent's favor. x x x⁵⁹

Petitioner filed a motion for reconsideration but the CA denied it under Resolution dated July 26, 2019.

Hence, this petition.

Issues

The Court is asked to resolve whether the CA gravely abused its discretion: (1) in not dismissing the petitions outright on the ground of forum shopping since these were filed by respondents when their motions for reconsideration were still pending and unresolved by the RTC; (2) in ruling that the RTC as a partition court has no jurisdiction to grant the motion for execution of this Court's order for the payment of widow's allowance to Rosita pending settlement of the estate of Sy Bang; and (3) in ruling that the death of Rosita constitutes a supervening event that would render such execution unjust and inequitable.

Petitioner's Arguments

Petitioner assails the CA for evading its positive duty to implement the final and executory decision of this Court in G.R. Nos. 114217 and 150797 when it dismissed all the orders and directives of this Court for the award of the widow's allowance. He claims that respondents are obviously delaying execution to frustrate the payment of the widow's allowance through similar acts that met this Court's disapproval as expressed in the aforesaid decision. As to the issues raised by respondents before the CA, petitioner asserts that all these had already been resolved with finality by this Court, which is binding and conclusive among the parties under the doctrine of *res judicata*.⁶⁰

On the issue of jurisdiction, petitioner argues that the CA gravely abused its discretion when it declared that the RTC has no jurisdiction to hear and resolve the motion for execution filed before it. This Court's Decision dated October 13, 2009 declared in no

⁵⁹ Id. at 66.

⁶⁰ Id. at 23-25.

uncertain terms that the court hearing the settlement of estate is the proper forum where the execution of the grant of the widow's allowance may be sought. He underscores the fact that it is this Court that transmitted the records of the case to the RTC for the implementation of its October 13, 2009 Decision in G.R. Nos. 114217 and 150797, and the Resolutions dated September 23, 1996 and April 4, 2005. Indeed, the RTC hearing the case for partition of the estate of Sy Bang should order the payment of widow's allowance considering that the properties of the estate are within its jurisdiction, to the exclusion of all other courts.⁶¹

Petitioner further faults the CA for not dismissing outright the petitions filed by respondents who committed forum shopping when they filed a petition for *certiorari* while the case for execution of judgment was still pending with the RTC as the latter has not yet ruled on the Motion for Reconsideration with a Motion for Clarification dated September 13, 2017, and the Motion to Withhold Writ of Execution Pending Resolution dated September 22, 2017.⁶²

Respondents' Arguments

Respondents contend that the CA correctly found that the situation falls under one of the exceptions to the rule of immutability of final and executory judgments, that is, the occurrence of a supervening fact or event that transpired after finality of the decision that would render its execution unjust and inequitable, such as the death of the recipient of support under Art. 303(1)⁶³ of the Civil Code for which reason the obligation to give support ceases. Further, they stress that in petitions for *certiorari*, mere allegation of the commission of grave abuse of discretion would not suffice; such grave abuse of discretion must be proved. According to respondents, petitioner failed to show that the CA committed grave abuse when it rendered the assailed April 5, 2019 Decision and July 26, 2019 Resolution.⁶⁴

⁶¹ Id. at 31-33.

⁶² Id. at 27-29.

⁶³ Art. 303. The obligation to give support shall also cease:

(1) Upon the death of the recipient;

x x x x

⁶⁴ *Rollo*, pp. 285-287.

Respondents assert that the principle of *res judicata* finds no application to this case. In the event this Court rules in their favor, there is no altering or modifying of the October 13, 2009 Decision in G.R. Nos. 114217 and 150797. The Court, rather, will be reinforcing the principle of due process.⁶⁵

Respondents reiterate the RTC's lack of jurisdiction to order execution of the grant of widow's allowance considering that the law (Art. 188, Civil Code) and the rules of procedure (Sec. 3, Rule 83 of the Rules of Court), as well as jurisprudence, explicitly provide that the widow's allowance can be ordered only by a court sitting as an estate proceeding court. They stress that no proceeding for settlement of estate of the deceased Sy Bang has ever been filed. Not even an extrajudicial settlement, for that matter, has been executed among the heirs of Sy Bang. Instead, an action for partition was filed nine years after his death.⁶⁶ Moreover, petitioner, who is not the administrator of the estate of Sy Bang, has no personality to sue for payment of widow's allowance.⁶⁷

As to their filing of the petitions for *certiorari* before the CA when the RTC had yet to resolve their motions for reconsideration, respondents explained that they could not wait for the RTC's resolution as they were running out of time; hence the petitions before the CA were filed *ad cautelam*. They insist that this falls under one exception to the rule requiring the filing of a motion for reconsideration before resort to *certiorari* is allowed: where the petitioner was deprived of due process and there is extreme urgency for relief.⁶⁸

The Court's Ruling

The petition is meritorious. We hold that the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in reversing the RTC orders granting petitioner's motion for execution of this Court's order for the payment of widow's allowance to Rosita Ferrera-Sy with respect to the amounts of such allowance that have accrued prior to her death.

⁶⁵ Id. at 291-292.

⁶⁶ Id. at 293-295.

⁶⁷ Id. at 295-296.

⁶⁸ Id. at 291.

***On the Allegations
of Forum Shopping***

As a general rule, *certiorari* as a special civil action does not lie unless a motion for reconsideration is first filed before the respondent court. We have previously held that a motion for reconsideration is an adequate remedy in itself, and is a condition *sine qua non* to the filing of the independent, original, and extraordinary special civil action of *certiorari*.⁶⁹ Thus, a motion for reconsideration subsequently denied “is a pre-requisite before a Petition for *Certiorari* may properly be filed.”⁷⁰ Where a motion for reconsideration has not been resolved by the court *a quo*, the petition for *certiorari* before the CA was prematurely filed, and hence should have been denied outright.⁷¹ Such simultaneous filing of a motion for reconsideration and petition for *certiorari* is in the nature of forum shopping.⁷²

In this case, however, records reveal that the pending motions referred to by petitioner (the Motion for Reconsideration with a Motion for Clarification dated September 13, 2017, and the Motion to Withhold Writ of Execution Pending Resolution dated September 22, 2017), were essentially *second* motions for reconsideration considering that respondents’ earlier motions for reconsideration had already been denied under the RTC’s Order dated July 18, 2017. This satisfies the requisite prior filing and resolution of a motion for reconsideration.

Moreover, the general rule requiring a motion for reconsideration finds no application in a case where what is precisely being assailed is lack of jurisdiction of the respondent court.⁷³ Respondents opposed the motion for execution mainly on the ground that as a partition court, the RTC had no jurisdiction to order execution of the grant of widow’s allowance.

***Execution of this Court’s Order for
the Payment of Widow’s Allowance***

Sec. 3, Rule 83 of the Rules of Court provides:

⁶⁹ *Go v. Looyuko*, 563 Phil. 36, 67 (2007), *Uy Chu v. Imperial and Uy Du*, 44 Phil. 27, 29 (1922).

⁷⁰ *Id.*, citing *Ricafort v. Fernan*, 101 Phil. 575 (1957).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Asia International Auctioneers, Inc. v. Parayno, Jr.*, 565 Phil. 255, 266 (2007).

SECTION 3. *Allowance to widow and family.* – The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom, under the direction of the court, such allowances as are provided by law.

The widow's allowance is based on the provisions of the Civil Code, before the Family Code of the Philippines repealed its provisions relating to marriage, family, property relations between spouses, paternity and filiation, legal separation and support.⁷⁴

The pertinent provisions are Arts. 290 and 188 of the Civil Code, which read:

Art. 290. Support is everything that is indispensable for sustenance, dwelling, clothing and medical attendance, according to the social position of the family.

Support also includes the education of the person entitled to be supported until he completes his education or training for some profession, trade or vocation, even beyond the age of majority.

Art. 188. From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds the fruits or rents pertaining to them.

Art. 195 of the Family Code provides that spouses are obliged to support each other to the whole extent set forth therein:

Art. 194. Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

In this case, Rosita filed a motion for payment of widow's allowance during the pendency of G.R. No. 114217, as she had not received any such allowance since the death of Sy Bang in 1971. This was opposed by respondents who argued that the widow's allowance provided in Sec. 3, Rule 83 is granted only "during the settlement of

⁷⁴ Titles III (Marriage), IV (Legal Separation), V (Rights and Obligations Between Husband and Wife), VI (Property Relations Between Husband and Wife), VIII (The Family) VIII (Paternity and Filiation), IX (Support) were repealed by Executive Order No. 209, otherwise known as the "Family Code of the Philippines" which took effect on August 3, 1988.



the estate,” and since Civil Case No. 8578 is a partition case, Rosita was not entitled to such widow’s allowance. On September 23, 1996, We granted her motion and ordered respondents jointly and severally to pay Rosita ₱25,000.00 as her monthly widow’s allowance, to be taken from the estate of Sy Bang, beginning September 1, 1996 and every month thereafter until the estate is finally settled or until further orders from the Court.

The issue of widow’s allowance was likewise brought before this Court in G.R. No. 150797, after the guardianship court issued an order for respondents to deposit the widow’s allowance with said court. We ruled that the guardianship court exceeded its jurisdiction when it ordered the deposit of the widow’s allowance, as it has limited jurisdiction and has no power to enforce payment of the widow’s allowance ordered by this Court. We then clarified that the “court” referred to in Sec. 3, Rule 83 of the Rules of Court is *the court hearing the settlement of the estate*.

Here, the question presented is whether RTC Branch 56, acting as a partition court, may order the payment of widow’s allowance, pursuant to our previous order in G.R. No. 114217. Worded differently: Is the partition court considered the court hearing the settlement of the estate?

We hold that the RTC acted within its jurisdiction when it granted petitioner’s motion for execution for the payment of widow’s allowance to Rosita.

Jurisprudence is clear that the settlement of an estate can be effected through an ordinary action for partition.⁷⁵ In *Spouses Villafria v. Plazo*,⁷⁶ We held that where the decedent died without a will and left no pending obligations, his heirs are not obliged to submit the properties of the estate to a special proceeding for the settlement of his estate. Sec. 1,⁷⁷ Rule 74 of the Rules of Court allows the heirs to

⁷⁵ *De Leon-Profeta v. Judge Mendiola*, A.M. No. RTJ-20-2596, January 19, 2021, citing *Torres v. Torres*, 119 Phil. 444, 448 (1964).

⁷⁶ 765 Phil. 761 (2015).

⁷⁷ Section 1, *Extrajudicial settlement by agreement between heirs*. — If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. The parties to an extrajudicial



divide the estate among themselves as they may see fit, or to resort to an ordinary action for partition. An action for partition has been recognized – as compared to administration proceedings – as one of the “less expensive modes of settlement of the estate.”⁷⁸ Thus, “where the more expeditious remedy of partition is available to the heirs, then they may not be compelled to submit to administration proceedings, dispensing of the risks of delay and of the properties being dissipated.”⁷⁹

In this case, while it is petitioner – an heir from the second marriage – who instituted the partition case, the co-heirs of the first marriage, including respondents, submitted themselves to the jurisdiction of the partition court and presented evidence on their respective allegations and defenses concerning the properties left by Sy Bang. Aside from the previous out-of-court agreement and compromise, the parties have acceded to and did not appeal the first and second partial decisions rendered by the said court. The Third Partial Decision was questioned before this Court by the co-heirs of the first marriage but We sustained its validity in G.R. No. 114217.

Considering that the parties resorted to an ordinary action for partition in Civil Case No. 8578, and that the properties of the estate of Sy Bang were effectively placed under the jurisdiction and authority of the RTC, said court, within the purview of Sec. 3 of Rule 83, becomes the court handling the “settlement of the estate” and is thus empowered to direct the payment of the widow’s allowance. This conclusion is not inconsistent with Our ruling in G.R. No. 150797 that:

settlement, whether by public instrument or by stipulation in a pending action for partition, or the sole heir who adjudicates the entire estate to himself by means of an affidavit shall file, simultaneously with and as a condition precedent to the filing of the public instrument, or stipulation in the action for partition, or of the affidavit in the office of the register of deeds, a bond with the said register of deeds, in an amount equivalent to the value of the personal property involved as certified to under oath by the parties concerned and conditioned upon the payment of any just claim that may be filed under section 4 of this rule. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two (2) years after the death of the decedent.

The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.

⁷⁸ *Arcillas v. Montejo*, 135 Phil. 208, 212-213 (1968).

⁷⁹ *Spouses Villafria v. Plazo*, supra note 72 at 780 (2015), citing *Avelino v. Court of Appeals*, 385 Phil. 1014, 1022 (2000).

Obviously, **“the court” referred to in Rule 83, Sec. 3, of the Rules of Court is the court hearing the settlement of the estate.** Also crystal clear is the provision of the law that the widow’s allowance is to be taken from the common mass of property forming part of the estate of the decedent.

Thus, as evident from the foregoing provisions, it is the court hearing the settlement of the estate that should effect the payment of widow’s allowance considering that the properties of the estate are within its jurisdiction, to the exclusion of all other courts.⁸⁰ (emphasis supplied)

The right of Rosita to the widow’s allowance and the amount to which she is entitled to has already been determined and upheld by this Court in our October 13, 2009 Decision. Interpreting Sec. 3, Rule 83, We declared that the guardianship court is not the proper court to enforce payment of the widow’s allowance in view of its limited jurisdiction. On the other hand, RTC Branch 56, the partition court, is the court hearing the settlement of the estate. In fact, said court already rendered three partial decisions and had acquired jurisdiction over the properties left by the decedent to the exclusion of all other courts.

The institution of a special proceeding for the settlement of the intestate estate of Sy Bang, as proposed by respondents for effecting payment of the widow’s allowance, would only entail additional costs for the parties and further delay the settlement of Sy Bang’s estate which remains unfinished despite the fact that Sy Bang had died over half a century ago. Considering that jurisprudence is replete with pronouncements that an ordinary action for partition is an accepted mode of settlement of intestate estates, respondents’ stubborn insistence on the need for a separate proceeding and refusal to recognize RTC Branch 56 as a settlement court unveil their intent to prolong the proceedings.

We reiterate Our pronouncement in G.R. Nos. 114217 and 150797 against respondents’ propensity for delaying the case and particularly evading compliance with this Court’s orders:

We are appalled by the delay in the disposition of this case brought about by petitioners’ propensity to challenge the Court’s every directive. That the petitioners would go to extreme lengths to

⁸⁰ *Heirs of Sy Bang v. Sy*, supra note 4 at 582.

evade complying with their duties under the law and the orders of this Court is truly deplorable. Not even a citation for contempt and the threat of imprisonment seemed to deter them. Their contumacious attitude and actions have dragged this case for far too long with practically no end in sight. Their abuse of legal and court processes is shameful, and they must not be allowed to continue with their atrocious behavior. Petitioners deserve to be sanctioned, and ordered to pay the Court treble costs.⁸¹

***Death of Rosita Ferrera-Sy
Not a Supervening Event***

The order for payment of widow's allowance to Rosita had long become final and executory, as upheld in our October 13, 2009 Decision in G.R. Nos. 114217 and 150797. To recall, We rejected respondents' argument that the resolution finding probable cause in the criminal cases for falsification of public document proved that Rosita is a mere common-law wife and not a "widow" and, therefore, not entitled to widow's allowance. We held that the finding of probable cause during preliminary investigation does not conclusively prove the charge of falsification. Consequently, until the marriage between Sy Bang and Rosita is finally declared void by a competent court, the same is presumed valid and she is entitled to receive her widow's allowance to be taken from the estate of Sy Bang.

Neither is Rosita's death in 2011 a supervening event to justify denial of the motion for execution of the grant of widow's allowance in her favor under our decision promulgated in 2009.

In *Gocolay v. Gocolay*,⁸² We held that "[F]or a supervening event to stay a final and executory order, the event must be shown to have materially changed the parties' situation or altered the order's substance, rendering execution inequitable."

It must be recalled that in granting the motion for execution filed by petitioner, the RTC ordered respondents to deposit only the accrued monthly widow's allowance from September 1996 up to the time of Rosita's death on March 5, 2011, minus whatever amount they had already deposited with the Court as payment for widow's

⁸¹ Id. at 585.

⁸² G.R. No. 220606, January 11, 2021.

allowance. Rosita's entitlement to widow's allowance ceased upon her death but her accrued widow's allowance clearly remains unpaid.

As the RTC correctly ruled:

Considering that the Supreme Court has long declared that Rosita Ferrera was entitled to receive widow's allowance, it does not automatically mean that her monthly allowance which she ought to have received during her lifetime were expunged after her death. The monthly allowance of Rosita Ferrera already accrued during her lifetime since its payment was ordered and until her death on March 5, 2011. Conversely, the death of Rosita Ferrera does *ipso facto* not absolved [*sic*] the defendants from their legal obligation to pay the monthly allowance of Rosita Ferrera that became due during her lifetime.⁸³

Since the death of Rosita did not absolve respondents from paying the widow's allowance ordered by this Court way back in September 1996, and to which she was entitled to until her demise on March 5, 2011, such event does not justify stopping payment of the accrued amounts of widow's allowance.

Art. 203 of the Family Code states that the obligation to give support is demandable from the time the person who has a right to receive the same *needs it for maintenance*, but it shall not be paid except from the date of judicial or extrajudicial demand. Indeed, the right to support does not arise from the mere fact of relationship, even from the relationship of parents and children, but "from imperative necessity without which it cannot be demanded, and the law presumes that such necessity does not exist unless support is demanded."⁸⁴

We are not persuaded by respondents' argument that by reason of her death, the amounts to which Rosita should have received as widow's allowance is converted to a money claim which her estate should pursue against the estate of Sy Bang. The CA's ratiocination reflecting respondents' posture would undermine the basis of the right to support as it would allow those obliged to give support to evade their obligation and perpetually delay compliance until the person entitled to such support dies.

⁸³ *Rollo*, p. 92.

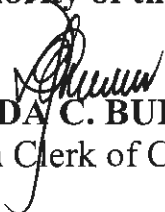
⁸⁴ *Sy v. Court of Appeals*, 565 Phil. 667, 677 (2007), citing *Jocson v. The Empire, Insurance Co. and Jocson Lagniton*, 103 Phil. 580, 582-583 (1958).

Support is needed for sustenance and other basic necessities for living. This is the reason why courts see to it that those obliged to give support immediately comply with orders for payment of support. Accrued support that remains unsettled for a considerable period of time, even beyond the lifetime of the recipient, certainly defeats the purpose of the law in granting the right to support. Clearly, the CA committed grave abuse of discretion in nullifying the orders of the RTC for the payment of widow's allowance to Rosita, which has been delayed for decades by the respondents.

WHEREFORE, the petition is **GRANTED**. The April 5, 2019 Decision and July 26, 2019 Resolution of the Court of Appeals in CA-G.R. SP Nos. 153295 and 153519 are **SET ASIDE**. The Orders dated September 1, 2015 and July 18, 2017 of the Regional Trial Court, Lucena City, Branch 56 in Civil Case No. 8578 are hereby **REINSTATED**. Costs against respondents.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 7/6/22

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

61-II

JUL 27 2022

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