



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 15, 2022** which reads as follows:*

“G.R. No. 249686 (*The Heirs of Federico Salazar, represented by Percival C. Salazar v. The Heirs of Daniel Valenzuela, represented by Nolan J. Valenzuela*). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision² dated May 24, 2019 and the Resolution³ dated September 20, 2019 rendered by the Court of Appeals (*CA*) in CA-G.R. SP No. 158279, denying the petition for *certiorari* filed by the heirs of Federico Salazar (*heirs of Salazar*) against the Orders⁴ dated July 20, 2018 and October 12, 2018 of the Regional Trial Court (*RTC*), Branch 258, Parañaque City in Civil Case No. 2016-276.

The instant case stemmed from a Complaint⁵ for quieting of title with partial cancellation of transfer certificate of title and damages dated October 12, 2016 filed by the heirs of Daniel Valenzuela against the heirs of Salazar before the RTC Branch 257, Parañaque City (*RTC Branch 257*). The heirs of Valenzuela averred that, as early as 1964, the siblings Federico Salazar (predecessors of the heirs of Salazar), Servillano Salazar, and Remedios Salazar have applied for the registration of a co-owned parcel of land, then covered by Real Property Tax Declaration No. 428091. Prior to the

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¹ *Rollo*, pp. 12-306.

² Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Maria Elisa Sempio-Diy and Ruben Reynaldo G. Roxas concurring; *id.* at 58-65.

³ *Id.* at 68-69.

⁴ *Id.* at 119-121; 122-123.

⁵ *Id.* at 124-132.

application, however, portions of the said parcel of land were already sold to other persons, including Antonio Espiritu, who bought a 300-square-meter portion from Servillano Salazar.⁶

The heirs of Valenzuela further alleged that, on May 26, 1964, the Court of First Instance of Rizal rendered a Decision granting the application for land registration. Accordingly, Original Certificate of Title (*OCT*) No. 4097 was issued by the Registration Commission in favor of Federico Salazar and Remedios Salazar, carrying an annotation that a 300-square-meter portion was sold to Antonio Espiritu by Servillano Salazar. Meanwhile, in December 1966, Antonio Espiritu sold this 300-square-meter portion to Daniel C. Valenzuela, their predecessor-in-interest, as evidenced by the Deed of Extra Judicial Partition with Sale.⁷

According to the heirs of Valenzuela, the annotation relative to the sale of the 300-square-meter portion to Antonio Espiritu in *OCT* No. 4097 was cancelled, through fraud, in the subsequent transfers of the subject land and was not carried over to the present subdivided Transfer Certificate of Title (*TCT*) No. 111366 (16930) in the name of Federico Salazar.⁸ Thus, they filed the present complaint to partially cancel *TCT* No. 111366 (16930), which covered the 300-square-meter portion they own as predecessors-in-interest of Daniel C. Valenzuela, but was registered only in the name of Federico Salazar. They argued that *TCT* No. 111366 (16930) in the name of Federico Salazar is casting cloud on their right of ownership and possession over the subject land.⁹

On July 3, 2017, the heirs of Salazar filed a Motion to Dismiss¹⁰ on the ground of *res judicata*. According to them, the issue in the case has long been decided with finality by the Supreme Court and can no longer be challenged. Specifically, they averred that they filed a previous *accion reivindicatoria* entitled “*The Heirs of Federico Salazar, as represented by Eduardo Salazar, Sr. v. Daniel Valenzuela, Rolando De Leon, Vic Valenzuela, and Nolan Valenzuela,*” before the RTC Branch 257 docketed as Civil Case No. 99-0208 against the heirs of Valenzuela, seeking to recover possession of the disputed 300-square-meter land being occupied by them. After trial, the RTC Branch 257 rendered a judgment in their favor and ordered the heirs

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⁶ *Id.* at 125.

⁷ *Id.* at 128.

⁸ *Id.*

⁹ *Id.* at 130.

¹⁰ *Id.* at 158-164.

of Valenzuela to vacate the subject land. In its decision, the RTC Branch 257 already ruled upon petitioners' claim of ownership and gave no credence to the Deed of Extra Judicial Partition with Sale relied upon by the heirs of Valenzuela. On September 29, 2015, the decision of the RTC was affirmed by the CA, which, too, disregarded the heirs of Valenzuela's claim of ownership over the subject land. Subsequently, the Court dismissed the heirs of Valenzuela's petition for review on *certiorari* and issued an entry of judgment on May 30, 2016.¹¹

In an Order¹² dated July 10, 2017, the RTC Branch 257 held in abeyance the resolution of the Motion to Dismiss and required the heirs of Salazar to file an Answer incorporating their grounds for dismissal of the case. On July 17, 2017, the heirs of Salazar filed their Answer,¹³ raising *res judicata* as an affirmative defense and reiterating their arguments in the Motion to Dismiss.

Meanwhile, the case was referred to Judicial Dispute Resolution (JDR). Upon failure of the parties to reach an amicable settlement, the JDR was terminated and the case was re-raffled to the RTC Branch 258. Thereafter, pre-trial ensued.¹⁴

On April 10, 2018, the heirs of Salazar filed a Manifestation with Motion to Resolve Affirmative Defense¹⁵ before the RTC Branch 258. They averred that they filed a Motion to Dismiss dated July 3, 2017 and an Answer dated July 15, 2017, in which they similarly raised the defense of *res judicata*. They prayed that the RTC Branch 258 issue an order dismissing the complaint.

In its Order¹⁶ dated July 20, 2018, the RTC Branch 258 denied the heirs of Salazar's Motion to Dismiss and affirmative defenses. It cited Part Three, Section II of A.M. No. 11-1-6-SC-PHILJA, or the Consolidated Revised Guidelines to Implement the Expanded Coverage of Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) and opined that, considering that the Motion to Dismiss and the Answer were filed prior to the conduct of the JDR, these are presumed to have already been dealt with by the JDR Judge

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¹¹ *Id.* at 159-160.

¹² *Id.* at 205.

¹³ *Id.* at 206-212.

¹⁴ *Id.* at 60.

¹⁵ *Id.* at 290-291.

¹⁶ *Id.* at 119-121.

in RTC Branch 257. Subsequently, they filed a motion for reconsideration, which was denied by the RTC Branch 258 in its Order¹⁷ dated October 12, 2018.

Aggrieved, the heirs of Salazar filed a petition for *certiorari*¹⁸ before the CA, arguing that the RTC Branch 258 committed grave abuse of discretion amounting to lack or excess of discretion in issuing its July 20, 2018 and October 12, 2018 Orders. They insisted that the issue on the ownership of the 300-square-meter portion of the subject land had long been settled with finality in a previous case, which already constitutes *res judicata* in the present case for quieting of title and partial cancellation of title. They contended that the RTC Branch 258 should have ruled on the merits of their Motion to Dismiss and affirmative defenses, instead of dismissing both outright on the ground that the matter should already have been settled by the JDR Judge in the RTC Branch 257.

In its Decision¹⁹ dated May 24, 2019, the CA dismissed the petition for *certiorari* holding that *certiorari* will issue only to correct errors of jurisdiction and not errors of procedures or mistakes in the findings and conclusions of the lower court. Thus, a petition for *certiorari* under Rule 65 of the Rules of Court is proper only when (1) any tribunal, board, or officer exercising judicial or *quasi*-judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction and (2) there is no appeal nor plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.²⁰

To be considered grave, moreover, discretion must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.²¹

The CA found that since petitioners were able to file a Motion to Dismiss, there is no point in resolving the affirmative defenses in their Answer. To this end, the RTC Branch 258 performed its duty

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¹⁷ *Id.* at 122-123.

¹⁸ *Id.* at 79-104.

¹⁹ *Id.* at 58-65.

²⁰ *Id.* at 62.

²¹ *Id.*

when it resolved the Motion to Dismiss, regardless of the conclusion it eventually arrived at. If the RTC Branch 258 committed abuse of discretion at all, the same is not grave. The heirs of Salazar failed to show that the act of the RTC Branch 258 was patent and gross, or that its discretion was exercised in a whimsical or arbitrary manner.²²

Finally, the CA held that the remedy when a motion to dismiss is denied is to proceed to trial and to appeal in the event an adverse judgment is rendered. Immediate resort to *certiorari* is not the plain and speedy remedy.²³

The heirs of Salazar filed a motion for reconsideration, which was denied by the CA in its Resolution²⁴ dated September 20, 2019.

Hence, this petition.

Petitioners argue that there is nothing in A.M. No. 11-1-6-SC-PHILJA that prohibits the trial judge from resolving incidents filed before it. In this case, since the Manifestation with Motion to Resolve Affirmative Defense dated April 10, 2018 was filed when the case was already re-raffled to the RTC Branch 258, the trial judge cannot evade the performance of his duty to resolve the same.²⁵

Petitioners also contend that in denying their Motion to Dismiss and affirmative defenses, the RTC Branch 258 effectively ordered the re-litigation of issues which had been resolved with finality. They argue that in the earlier *accion reivindicatoria*, respondents heirs of Valenzuela's allegation of fraud and claim of ownership had already been passed upon and dismissed. As the records disclose, almost 18 years had passed from the filing of the *accion reivindicatoria* until possession of the disputed land was actually turned over to them. Now that they have finally recovered possession of their land and proved their ownership over the same, it is only just and fair that they be spared from tedious court litigation again.²⁶

Moreover, petitioners aver that, in issuing the assailed Orders, the RTC Branch 258 militated against the rationale behind A.M. No. 11-1-6-SC-PHILJA of solving the "ever-pressing problem of court

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²² *Id.* at 63-64.

²³ *Id.* at 64.

²⁴ *Id.* at 68-69.

²⁵ *Id.* at 31.

²⁶ *Id.* at 32-33.

docket congestion.”²⁷ They insist that the complaint of the respondents is already barred by *res judicata*, or conclusiveness of judgment, since it involves identical parties, subject matter, and cause of action with that of the previous *accion reivindicatoria*, which, however, already declared petitioners as the owners of the disputed subject land. This ruling, petitioners emphasize, has long attained finality after it was affirmed by the Court of Appeals, and subsequently by the Court.²⁸

In their Comment²⁹ (in compliance with the Order of December 11, 2019) dated July 18, 2020, respondents counter that the RTC Branch 258 did not decline to render judgment on the Motion to Dismiss and affirmative defenses raised by the petitioners before the trial court. They aver that RTC Branch 258 indeed acted on their Motion to Dismiss and affirmative defenses that raised the issue of *res judicata* when it denied the same.³⁰

The issue for the Court’s resolution is whether the CA erred in dismissing the petition for *certiorari* and in holding that the RTC Branch 258 did not commit grave abuse of discretion in denying petitioners’ Motion to Dismiss and affirmative defenses.

The petition is granted.

To recall, petitioners filed a petition for *certiorari* before the CA ascribing grave abuse of discretion on the part of the RTC Branch 258 when it denied their motion to dismiss and affirmative defenses. The CA did not agree with them, holding that *certiorari* is not available to question the denial of the motion to dismiss, as the proper remedy is to proceed to trial and to appeal in the event an adverse judgment is rendered. The CA also ruled that petitioners failed to show that the act of the RTC Branch 258 was patent or gross so as to constitute grave abuse of discretion.

At the onset, for a petition for *certiorari* to prosper, Section 1, Rule 65 of the Rules of Court requires that the tribunal, board, or officer exercising judicial or quasi-judicial functions must have acted without or in excess of its jurisdiction, or with grave abuse of discretion, amounting to lack or excess of jurisdiction. There is grave abuse of discretion –

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²⁷ *Id.*

²⁸ *Id.* at 44-45.

²⁹ *Id.* at 312-330.

³⁰ *Id.* at 326.

when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, such as the power is exercised in arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.³¹

It has been held that while an order denying a motion to dismiss is interlocutory and not appealable,³² there are certain situations where recourse to the special civil action for *certiorari* or *mandamus* is considered appropriate:

- (a) when the trial court issued the order without or in excess of jurisdiction;
- (b) where there is patent grave abuse of discretion by the trial court; or
- (c) appeal would not prove to be a speedy and adequate remedy as when appeal would not promptly relieve a defendant from the injurious effects of the patently mistaken order maintaining the plaintiff's baseless action and compelling the defendant needlessly to go through a protracted trial and clogging the court dockets by another futile case.³³

Here, in denying the Motion to Dismiss and affirmative defenses of petitioners, the RTC Branch 258 relied on Part Three, Section II of A.M. No. 11-1-6-SC-PHILJA, or the Consolidated Revised Guidelines to Implement the Expanded Coverage of Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) which states:

II. Procedure

Judicial proceedings shall be divided into two stages: (1) from the filing of a complaint to the conduct of CAM and JDR during the pre-trial stage, and (2) pre-trial proper to trial and judgment. The judge to whom the case has been originally raffled, who shall be called the JDR Judge, shall preside over the first stage. The judge, who shall be called the trial judge, shall preside over the second stage.

At the initial stage of the pre-trial conference, the JDR judge briefs the parties and counsels of the CAM and JDR processes. Thereafter, he issues an Order of Referral of the case to CAM and

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³¹ *Manila Memorial Park Cemetery Inc. v. Panado*, 524 Phil. 282, 295 (2006), citing *Chua Huat v. The Honorable Court of Appeals*, 276 Phil. 1, 18 (1991).

³² *Barrazona v. RTC, Branch 61, Baguio City*, 521 Phil. 53, 59 (2006), citing *Ablan, Sr. v. Madarang*, 148-B Phil. 690 (1971).

³³ *Development Bank of the Philippines v. La Campana Development Corporation*, 489 Phil 352, 366 (2005), citing *Bank of America NT & SA v. Court of Appeals*, 448 Phil. 181, 193 (2003).

directs the parties and their counsels to proceed to the PMCU bringing with them a copy of the Order of Referral. The JDR judge shall include in said Order, or in another Order, the pre-setting of the case for JDR not earlier than forty-five (45) days from the time the parties first personally appear at the PMCU so that JDR will be conducted immediately if the parties do not settle at CAM.

All incidents or motions filed during the first stage shall be dealt with by the JDR judge. If JDR is not conducted because of the failure of the parties to appear, the JDR judge may impose the appropriate sanctions and shall continue with the proceedings of the case.³⁴

Based on the provision, the RTC Branch 258 opined that the Motion to Dismiss and affirmative defenses filed and raised, respectively, by petitioners prior to JDR have been passed upon by the JDR Judge. Accordingly, the RTC Branch 258 did not see it necessary to resolve these anymore and proceeded to dismiss both without ruling on the merits of petitioners' defense.

By denying petitioners' motion to dismiss and affirmative defenses solely on the basis of A.M. No. 11-1-6-SC-PHILJA, the RTC Branch 258 acted with grave abuse of discretion. To be sure, the authority given to JDR judges, to deal with all incidents or motions filed during the first stage of case proceedings, does not prevent trial courts and judges from exercising powers which are also wholly within their competence and jurisdiction.

Under Section 1, Rule 9 of the 1997 Rules of Civil Procedure, which is applicable at the time the Manifestation with Motion to Resolve Affirmative Defense was filed before the RTC Branch 258, trial courts have the duty to dismiss the case when it appears from the pleadings or records that any of the circumstances listed thereunder is present, thus:

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 **the court has no jurisdiction over the subject matter**, that there is **another action pending between the same parties for the same cause**, or that **the action is barred by a prior judgment or by statute of limitations**, the court shall dismiss the claim.³⁵

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³⁴ Emphasis supplied.

³⁵ Emphasis supplied.

In the present case, the RTC Branch 258 is deemed to have been apprised of petitioners' defense of *res judicata* considering that the Motion to Dismiss was attached as an annex to the Manifestation with Motion to Resolve Affirmative Defense filed before it on April 10, 2018. Moreover, petitioners reiterated *res judicata* as an affirmative defense in their Answer. In view of the foregoing, the RTC Branch 258 should have delved into the merits of and conducted a preliminary hearing on the affirmative defense of petitioners. Such action is allowed under Section 6, Rule 16 of the 1997 Rules of Civil Procedure, thus:

Sec. 6. Pleading grounds as affirmative defenses. – If no motion to dismiss has been filed, **any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon** as if a motion to dismiss had been filed.³⁶

Conducting a preliminary hearing on the affirmative defense should have been a matter of course on the part of the RTC Branch 258, considering that the ground relied upon by petitioners for the dismissal of the case, *i.e.*, *res judicata*, appears indubitable. To reiterate, petitioners raised that they previously filed an *accion reivindicatoria* against the respondents before the RTC Branch 257. According to them, they asserted ownership over the 300-square-meter land subject of the present case and sought to recover the possession thereof from the respondents. In due course, the RTC Branch 257 supposedly declared them as the owners of the disputed land, and ordered the respondents to vacate therefrom. On appeal, the CA affirmed the decision of the RTC Branch 257, dismissing the respondents' claim of ownership. Petitioners averred that the CA did not give credence to the Deed of Extra Judicial Partition with Sale submitted by the respondents, holding that it did not establish the sale of the disputed land in favor of their predecessor-in-interest, Daniel Valenzuela. When the respondents filed a petition for review on *certiorari* before the Court, it was dismissed for failure to sufficiently show that the CA committed any reversible error in its Decision and Resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction. On September 28, 2016, the Decision of the Court became final and executory.³⁷

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³⁶ Emphasis supplied.

³⁷ *Rollo*, p. 191.

Clearly, petitioners' defense of *res judicata* could have warranted the outright dismissal of respondents' complaint. To note, respondents filed the present complaint for quieting of title and partial cancellation of title on the basis of their supposed ownership of the disputed land. To support their claim, they seek to submit anew the Deed of Extra Judicial Partition with Sale. These matters, however, appear to have been passed upon in the previous *accion reivindicatoria*, the judgment on which had already become final and executory. The Court notes that it took almost two decades from the time the *accion reivindicatoria* was filed until a final favorable decision ordering the turnover of possession of the disputed lands to petitioners was rendered. Justice and fairness only dictates that the parties be spared the time, trouble, and expense of undergoing the rigors of a protracted litigation again. The principle of *res judicata* requires that stability be accorded to judgments. Controversies, once decided on the merits, shall remain in repose for there should be an end to litigation which without the doctrine, would be endless.³⁸

Indeed, in perfunctorily denying the motion to dismiss and affirmative defenses of petitioners on the basis of A.M. No. 11-1-6-SC-PHILJA, the abuse of the discretion committed by the RTC Branch 258 amounted to an evasion of positive duty and virtual refusal to perform a duty enjoined, or to act at all in contemplation of law. At this juncture, the better course of action for the RTC Branch 258 is to conduct a preliminary hearing on the defense of *res judicata* of petitioners, which is sanctioned under Section 12 (d),³⁹ Rule 8, in relation to Section 5(b),⁴⁰ Rule 6 of the Amended 1997 Rules of Civil Procedure, and to suspend further proceedings until a resolution thereon is made.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 24, 2019 and the Resolution dated September 20, 2019 rendered by the Court of Appeals in CA-G.R. SP No. 158279 are

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³⁸ *Dela Rama v. Judge Mendiola, Regional Trial Court Pasay City*, 449 Phil. 754, 765 (2003).

³⁹ (d) As to the other affirmative defenses under the first paragraph of Section 5(b), Rule 6, the court may conduct a summary hearing within fifteen (15) calendar days from the filing of the answer. Such affirmative defenses shall be resolved by the court within thirty (30) calendar days from the termination of the summary hearing.

⁴⁰ (b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him or her. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance.

Affirmative defenses may also include grounds for the dismissal of a complaint, specifically, that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment.

hereby **REVERSED and SET ASIDE**. The Regional Trial Court, Branch 258, Parañaque City is **ORDERED** to **CONDUCT** a preliminary hearing on the affirmative defenses of petitioners and to suspend further proceedings until a resolution thereon is made.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *Librada C. Buena*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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