



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 16, 2022**, which reads as follows:*

“G.R. No. 225665 (Nora P. San Pedro v. Heraclio R. Orcullo, Jr. et al.) — The propriety of the dismissal of a special civil action for *certiorari* is the core issue in this appeal assailing the Court of Appeals’ (CA) Resolution¹ dated December 28, 2015 in CA-G.R. SP No. 142851.

In 1997, Heraclio Orcullo, Sr. (Heraclio Sr.) filed against Fil-Estate Consortium (Fil-Estate) a complaint for quieting of title and recovery of ownership and possession with prayer for injunctive relief docketed as Civil Case No. L-97-0229 before the Regional Trial Court (RTC) of Las Piñas City, Branch 23. The controversy involved a parcel of land described in Plan PSU-169404 and covered by Tax Declaration No. 22579. On October 14, 1997, Heraclio Sr. executed in favor of Nora San Pedro (Nora) a contract to sell over a portion of the land for ₱1,600,000.00. Atty. Patrocino Palanog (Atty. Palanog) assisted the parties in their transaction.²

On April 14, 2004, Heraclio, Sr. died and was substituted in Civil Case No. L-97-0229 by his heirs, namely, Heraclio Orcullo, Jr., Lourdes Orcullo-Palmones, and Antonio R. Orcullo (Heraclio Jr. et al.). In 2013, Fil-Estate and Heraclio Jr. et al. entered into a compromise agreement which rendered the performance of the obligation in the contract to sell no longer possible. Aggrieved, Nora filed against Heraclio Jr. et al. and Atty. Palanog before the RTC an action for damages and refund of ₱1,600,000.00 docketed as Civil Case No. 14-368.³

Heraclio Jr. et al. and Atty. Palanog sought to dismiss the complaint in Civil Case No. 14-368 for failure to state a cause of action. On April 24, 2015, the RTC dismissed the case on the grounds that Nora’s recourse is against the

¹ *Rollo*, pp. 38–41. The December 28, 2015 Resolution in CA-G.R. SP No. 142851 was penned by Associate Justice Franchito N. Diamante with the concurrence of Associate Justices (now a member of the Court) and Carmelita Salandanan Manahan of the Eight Division, Court of Appeals Manila.

² *Id.* at 16–17.

³ *Id.* at 17–18.

estate of Heraclio Sr., and that Heraclio Jr. et al. and Atty. Palanog are not real party defendants,⁴ to wit:

It is clear from the foregoing provision that all money claims arising from a contract against the decedent, Heraclio Orcullo, Sr. should be filed against his estate.

As such, the second and third element[s] of a cause of action particularly, the correlative obligation of the defendants to respect the legal right of the plaintiff[,] and the act or omission of the defendants that violates such right are lacking in the instant case since **the obligation rest in the estate of the decedent and not to his individual heirs or even to defendant Palanog who acted as counsel for Heraclio Orcullo, Sr.**

Moreover, a suit that is not brought in the name of the real party in interest is dismissible on the ground that the complaint 'fails to state a cause of action.'

WHEREFORE, premises considered, the respective Motions to Dismiss filed by defendants Atty. Patrocino S. Palanog and Heraclio R. Orcullo, Jr. are hereby GRANTED. **Accordingly, the instant case is hereby DISMISSED for failure of the plaintiff to state a cause of action.**

SO ORDERED.⁵ (Emphases in the original)

Unsuccessful at a reconsideration,⁶ Nora elevated the matter to the CA through a special civil action for *certiorari* docketed as CA-G.R. SP No. 142851. On December 28, 2015, the CA dismissed outright the petition for *certiorari* for being a wrong remedy. The CA explained that the RTC's Order dated April 24, 2015 is a final order, which is a proper subject of an appeal, *viz.*:

We hold that petitioner has resorted to a wrong mode of appeal by pursuing a Rule 65 petition from the RTC's final order of dismissal of the complaint filed in the proceedings below and the consequent denial of the motion for reconsideration.

x x x x

Here, petitioner cannot argue that there is no plain, speedy, and adequate remedy available to it to question the dismissal Order of the court a quo. The order of dismissal of complaint does not fall into any of the exceptions under Section 1, Rule 41, where appeal is not available as a remedy. **The pronouncement of the RTC in its April 24, 2012 Order, dismissing the complaint for failure to state a cause of action, whether correct or not, is a final order.** It is not interlocutory because the proceedings were extinguished, and there is nothing more to be done by the lower court to resolve. The proper

⁴ Id. at 229–232.

⁵ Id. at 232.

⁶ Id. at 204.

remedy, therefore, would have been the filing of an ordinary appeal under Rule 41 of the Rules of Court. Such is the plain, speedy, and adequate remedy under the law, and not a Petition for Certiorari under Rule 65.

X X X X

In view of the foregoing, this petition is hereby DISMISSED outright.

SO ORDERED.⁷ (Emphases in the original)

Nora sought reconsideration but was denied.⁸ Hence, this petition for review on *certiorari*. Nora argues that the RTC's Order dated April 24, 2015 in Civil Case No. 14-368 is a dismissal of the complaint without prejudice absent any contrary pronouncement. Furthermore, the grounds for the dismissal of the complaint do not bar the filing of a similar case. As such, the proper recourse is a special civil action for *certiorari*.⁹ On the other hand, Heraclio Jr. et al. and Atty. Palanog countered that the proper remedy against a final order is an ordinary appeal.¹⁰

The petition is meritorious.

Prefatorily, it bears emphasis that the RTC dismissed the complaint in Civil Case No. 14-368 for failure to state a cause of action. The RTC ratiocinated that Nora's recourse is against the estate of Heraclio Sr., and that Heraclio Jr. et al. and Atty. Palanog are not real party defendants.¹¹ The jurisprudence provides that if the suit is not brought in the name of, or against, the real party in interest, the case may be dismissed on the ground that the complaint states no cause of action.¹² As aptly held in *Strongworld Construction Corporation v. Perello*,¹³ such dismissal is without prejudice and does not bar the refileing of the complaint, thus:

Briefly stated, dismissals that are based on the following grounds, to wit: (1) that the cause of action is barred by a prior judgment or by the statute of limitations; (2) that the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned or otherwise extinguished; and (3) that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, bar the refileing of the same action or claim. **Logically, the nature of the dismissal founded on any of the preceding grounds is 'with prejudice' because the dismissal prevents the refileing of the same action or claim. Ergo, dismissals based on the rest of the grounds**

⁷ Id. at 39-41.

⁸ Id. at 43-46.

⁹ Id. at 13-33.

¹⁰ Id. at 446-455; and 483-491.

¹¹ Id. at 187-190.

¹² *Caro v. Sucaldito*, 497 Phil. 879, 889 (2005); *Shipside Incorporated v. Court of Appeals*, 404 Phil. 981, 1000 (2001); and *Balagtas v. Court of Appeals*, 375 Phil. 480, 489 (1999).

¹³ 528 Phil. 1080 (2006).

enumerated are without prejudice because they do not preclude the refiling of the same action.

Verily, the dismissal of petitioners' Complaint by the court *a quo* was not based on any of the grounds specified in Section 5, Rule 16 of the 1997 Revised Rules of Civil Procedure; rather, it was grounded on what was encapsulated in Section 1(g), Rule 16 of the 1997 Revised Rules of Civil Procedure. **As the trial court ratiocinated in its 9 January 1998 Order, the Complaint is not prosecuted by the proper party in interest. Considering the heretofore discussion, we can say that the order of dismissal was based on the ground that the Complaint states no cause of action. For this reason, the dismissal of petitioners' Complaint cannot be said to be a dismissal with prejudice which bars the refiling of the same action.**¹⁴ (Emphases supplied)

The Rules of Court is explicit that no appeal may be taken from an order dismissing an action without prejudice.¹⁵ Corollarily, the remedy available to the aggrieved party is to file a special civil action for *certiorari*.¹⁶ Here, Nora availed the proper recourse before the CA to question the RTC's dismissal of the complaint on the ground of failure to state a cause of action. Verily, the CA committed a reversible error in its outright dismissal of the special civil action for *certiorari*.

FOR THESE REASONS, the petition is **GRANTED**. The Court of Appeals' Resolution dated December 28, 2015 in CA-G.R. SP No. 142851 is **REVERSED**. The case is **REMANDED** to the Court of Appeals for further proceedings on the merits with dispatch.

SO ORDERED."

By authority of the Court:

Misael
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

JB 10/14/22

GARGANTIEL ILAGAN & ATANANTE
Counsel for Petitioner
2/F Times Square Building, 57
Examiner St., corner Times St. West Triangle
1107 Quezon City

COURT OF APPEALS
CA G.R. SP No. 142851
1000 Manila

¹⁴ Id. at 1097.

¹⁵ Section 1(h), Rule 41 of the Rules of Court.

¹⁶ *Philippine Export and Foreign Loan Guarantee Corporation v. Philippine Infrastructures, Inc.*, 464 Phil. 8 (2004).

FLORES LAW OFFICE
Counsel for Respondent Orcullo, Jr.
Unit 6, 2/F DLA Building, National Road
1770 Putatan, Muntinlupa City

Atty. Patrocinio S. Palanog
Respondent
166 Kabulusan Road 2, 1400 Caloocan City

Ms. Lourdes Orcullo-Palmones
Respondent
Lopez Jaena St., Poblacion 6
5100 Occidental Mindoro

Mr. Antonio Orcullo
Respondent
85 Colt Street I, Concepcion
1800 Marikina City

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