



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court's First Division issued a Resolution dated December 7, 2022 which reads as follows:

“G.R. No. 240731 (Godofredo Quilatan, Florinda Quilatan-Esteban, and Nenita Quilatan-Yumping vs. Rosvida Quilatan-Elias, Rolando Quilatan, Solita Quilatan-Trapsi, and Ely Quilatan). — This Appeal by *Certiorari*¹ seeks to reverse and set aside the October 13, 2017 Decision² and the July 12, 2018 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 108070, where the CA reversed the October 27, 2016 Order⁴ of the Regional Trial Court of Taguig City, Branch 266 (RTC) and affirmed the June 30, 2016 Decision⁵ of the same court in Civil Case No. 71392-TG.

Antecedents

Pedro Quilatan (*Pedro*) owned several lots in Dinguinbayan St., Tipas, Taguig City, which had an aggregate area of 2,400 square meters (*sq. m.; subject property*). The late Pedro had three sons, namely: Lorenzo, Francisco, and Ciriaco. Lorenzo had four children, three of which were named: Godofredo, Florinda, and Nenita (*petitioners*). Francisco and Ciriaco both predeceased their father, but were survived by their respective children. Francisco was survived by his four children, namely: Ely, Rosvida, Rolando,

¹ *Rollo*, pp. 11-31.

² *Id.* at 33-44; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Leoncia R. Dimagiba and Henri Jean Paul B. Inting (now a Member of the Court).

³ *Id.* at 45-47; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Henri Jean Paul B. Inting (now a Member of the Court).

⁴ *Id.* at 64-66; penned by Acting Presiding Judge Maryann E. Corpus-Mañalac.

⁵ *Id.* at 49-54; penned by Presiding Judge Toribio E. Ilaog, Jr.

and Solita (*respondents*), while Ciriaco was survived by his five children, namely: Renato, Purificacion, Rosita, Danilo, and Carlito.⁶

On February 16, 1981, Lorenzo, Ely, and Renato entered into a Deed of Partition⁷ (or extrajudicial partition) wherein they manifested that they were the “exclusive and absolute” owners of the six lots covered by Tax Declaration No. 120-017-00601 that comprise the subject property. They divided the subject property among themselves, as follows:

Lorenzo	–	1,200 sq. m.
Ely	–	653 sq. m.
Renato	–	546 sq. m. ⁸

After more than two decades, on October 31, 2007, respondents filed a Complaint⁹ for reconveyance or recovery of property before the RTC representing the 400 sq. m. deficiency share in the partition of the co-owner’s properties. They averred that the deed of partition executed by Lorenzo, Ely, and Renato was void *ab initio* due to respondents’ lack of participation and the deprivation of their rightful share in the inheritance through right of representation when their father, Francisco, predeceased Pedro. They also argued that the proper partition should have been one-third of the total area per child of the late Pedro, and that since the heirs of Ciriaco waived their right over their share in favor of Rosvida, the latter had the rightful claim over such one-third share.¹⁰

In response, petitioners argued that there was non-joinder of indispensable parties in the case due to the lack of all the co-heirs and persons having an interest in the subject properties being impleaded in the complaint; that there was no showing that the heirs of Ciriaco waived their right to the subject properties in Rosvida’s favor; that Pedro had already disposed of the subject properties during his lifetime through a document called “*Salaysay ng Paglilipat*” in favor of his son, Lorenzo, and grandsons, Renato and Ely; and that the action had already prescribed as more than 10 years had lapsed since the partition took place.¹¹

⁶ Id. at 34.

⁷ Records, pp. 28-29.

⁸ *Rollo*, pp. 34-35.

⁹ Records, pp. 4-18.

¹⁰ *Rollo*, p. 35.

¹¹ Id. at 35-36 and 50.

The RTC Ruling

In its Decision dated June 30, 2016, the RTC confirmed the deed of partition. The dispositive portion of the decision, reads:

WHEREFORE, judgment is hereby rendered confirming the Deed of Extrajudicial Partition executed by the parties dated February 1981. Consequently, the Defendants-in-Chief are ordered to return the Four Hundred (400) square meters which was over distributed to them with Two Hundred (200) square meters thereof in favor of the plaintiffs, and the other Two Hundred (200) square meters in favor of Rosvida Quilatan-Elias by virtue of the waiver of the Heirs of Ciriaco in her favor. Consequently, defendants are also liable with to pay the plaintiff Fifty Thousand Pesos (P50,000) by way of attorney's fees.

No costs.

SO ORDERED.¹²

The RTC held that based on the evidence and the witnesses' testimonies, the parties had agreed to divide the subject property in three equal shares. Thus, the RTC ordered petitioners to return 400 sq. m. of the lot area to respondents.¹³

Petitioners filed a Motion for Reconsideration¹⁴ seeking the reversal of the RTC Decision. While the motion was pending, the presiding judge who rendered the decision reached his retirement age. A different judge resolved the motion and found merit in the contention of petitioners. In an Order dated October 27, 2016, the RTC disposed as follows:

WHEREFORE, the Motion for Reconsideration is **GRANTED**.
The complaint is hereby dismissed.

SO ORDERED.¹⁵

This time, the RTC held that the deed of partition was entered into in preterition of the other compulsory heirs and that the division of the subject property should be equal among Pedro's children. Thus, the RTC ordered the dismissal of the complaint for the reason that the partition and

¹² Id. at 54.

¹³ Id. at 53-54.

¹⁴ Id. at 56-62.

¹⁵ Id. at 66.

distribution of the estate could not be disposed of in an ordinary action for partition or reconveyance, but through a special proceeding for the settlement of the estate in a petition for administration.¹⁶

Aggrieved, respondents filed an Appeal¹⁷ with the CA.

The CA Ruling

In its October 13, 2017 Decision, the CA granted the appeal of respondents and reversed the October 27, 2016 Order of the RTC. The dispositive portion of the decision, reads:

WHEREFORE, the appeal is **GRANTED**. The assailed order of 27 October 2016 is consequently **SET ASIDE**. The original decision of 30 June 2016 is reinstated.

IT IS SO ORDERED.¹⁸

The CA held that the allegations in the complaint were clearly an action for reconveyance of the excess 400-sq. m. portion of the subject property that had been over distributed to petitioners by virtue of a deed of partition, hence, an action for reconveyance was proper. The RTC's October 27, 2016 Order, meanwhile, referred to a remedy for a deprived heir under Section 4, Rule 74 of the Rules of Court. However, respondents may no longer compel the settlement of the estate for satisfying their lawful participation because more than two years had passed after the subject property was distributed by virtue of a deed of partition. Finally, the CA held that under Article 494 of the Civil Code,¹⁹ prescription could not apply against respondents as they are compulsory heirs to the estate and the subject property was owned in common even before the partition took place. Hence,

¹⁶ Id. at 66.

¹⁷ Id. at 68-70.

¹⁸ Id. at 43-44.

¹⁹ Article 494. No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.

Nevertheless, an agreement to keep the thing undivided for a certain period of time, not exceeding ten years, shall be valid. This term may be extended by a new agreement.

A donor or testator may prohibit partition for a period which shall not exceed twenty years.

Neither shall there be any partition when it is prohibited by law.

No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership.

respondents could still assert their right over the subject property as co-heirs and co-owners.²⁰

The CA denied²¹ petitioners' motion for reconsideration in its July 12, 2018 Resolution. Hence, this appeal by *certiorari*.

Meanwhile, there is a similar case in G.R. No. 183059, entitled *Quilatan v. Heirs of Quilatan*²² (*Quilatan*) which includes some of the same parties to this case (two of the heirs of Francisco, namely, Ely and Rosvida; and three of the heirs of Lorenzo, namely, Nenita, Florinda, and Godofredo) and it involves one of the properties of the late Pedro regarding an action for nullification of tax declarations and partition of estate. The Court issued a Decision dated August 28, 2009 affirming the CA's Decision to dismiss the case of therein petitioners (respondents in the present case) without prejudice for failure to implead all the indispensable parties to the case.

Issue

The present case essentially involves this issue:

WHETHER THE CA ERRED IN SETTING ASIDE THE OCTOBER 27, 2016 ORDER OF THE RTC AND REINSTATING THE JUNE 30, 2016 DECISION OF THE SAME COURT.

Petitioners argue that the June 30, 2016 Decision of the RTC is patently erroneous, illogical, and even contradicting as it confirmed the deed of partition, but ordered the return of 400 sq. m. in favor of Rosvida, which was not provided for in the deed. Hence, the exact observance of the contents of the deed, as well as the partition should be followed as the deed never intended for equal distribution. Petitioners also point out that the disposition of the 400 sq. m. was not discussed in the CA Decision, but only added in its dispositive portion. Thus, petitioners agree with the RTC's Order dated October 27, 2016, stating that the complaint should be dismissed, especially since a co-heir who is an indispensable party in the action was not included in the petition. Finally, petitioners reiterate that laches apply in this case as the property had already been secured and

²⁰ *Rollo*, pp. 40-43.

²¹ *Id.* at 46.

²² 614 Phil. 162 (2009).

registered with certificates of title back in 1976, and an action for reconveyance based on trust will prescribe in 10 years.²³

In their Comment,²⁴ respondents counter that the issues raised by petitioners were already considered and passed upon by the CA. They argue that a complaint for reconveyance could prosper as the reconveyance was merely for the 400-sq. m. share on account of the fraud committed by petitioners. Further, respondents argue that prescription does not apply as prescription cannot run against a co-owner or a co-heir under Art. 494 of the Civil Code.²⁵

The Court's Ruling

The petition is partly meritorious.

Indispensable parties must be impleaded for a full resolution of the case.

Based on a reading of the amended complaint, the nature of the suit, the allegations therein, and the reliefs prayed for, respondents requested for the reconveyance of their share in the subject property and proper partition of the subject property into equal shares.

An action for reconveyance is a legal and equitable remedy granted to the rightful landowner, whose land was wrongfully or erroneously registered in the name of another, for the purpose of compelling the registered owner to transfer or reconvey the land to him or her.²⁶ It is also an action which admits the registration of title of another party but claims that such registration was erroneous or wrongful.²⁷

Meanwhile, an ordinary action for partition is covered by Sec. 1, Rule 69 of the Rules of Court, to wit:

Section 1. *Complaint in action for partition of real estate.* — A person having the right to compel the partition of real estate may do so as

²³ *Rollo*, pp. 18-21.

²⁴ *CA rollo*, pp. 185-189.

²⁵ *Id.* at 186.

²⁶ *Basilio v. Callo*, G.R. No. 223763, November 23, 2020.

²⁷ *Spouses Aboitiz v. Spouses Po*, 810 Phil. 123, 137 (2017).

provided in this Rule, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all other persons interested in the property.

However, the Court notes that respondents have failed to join all indispensable parties to the case involving this action for reconveyance and partition. The mandatory rule on joinder of indispensable parties is set forth in Sec. 7, Rule 3 of the Rules of Court, to wit:

Section 7. *Compulsory joinder of indispensable parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

An indispensable party is one who stands to be injured or benefited by the outcome of the petition. Such party has an interest in the controversy that a final decree would necessarily affect their rights, such that the courts cannot proceed without their presence.²⁸ It is settled that the joinder of all indispensable parties is required under any and all conditions, their presence being a *sine qua non* condition of the exercise of judicial power. Such joinder is therefore mandatory and courts cannot proceed without their presence as it vests the court with jurisdiction and the authority to hear and determine a cause, and the right to act in a case.²⁹

In *Macababbad, Jr. v. Masirag*,³⁰ the Court held that in an action for reconveyance, all the owners of the property sought to be recovered are indispensable parties. On the other hand, under the claim that the action is for the declaration of the nullity of extrajudicial settlement of estate and sale, all of the parties who executed the same should be impleaded for a complete resolution of the case.³¹ In said case, the Court affirmed the findings of the CA that since there was failure to implead an indispensable party, the case should be remanded to the trial court for further proceedings.

Similarly, in *Divinagracia v. Parilla*³² (*Divinagracia*), which involves a complaint for partition, it was held that all the co-heirs and persons having an interest in the property are indispensable parties; as such, an action for partition will not lie without the joinder of all the parties. It was also underscored therein that in instances of non-joinder of indispensable parties, the proper remedy is to implead them and not to dismiss the case. The

²⁸ *Macababbad, Jr. v. Masirag*, 596 Phil. 76, 97 (2009).

²⁹ *Heirs of Dinglasan v. Ayala Corp.*, G.R. No. 204378, August 5, 2019, 912 SCRA 50, 68.

³⁰ *Supra*.

³¹ *Id.* at 97.

³² 755 Phil. 783 (2015).

correct course of action is to order its remand to the RTC for the inclusion of those indispensable parties who were not impleaded and for the disposition of the case on the merits.³³

In the recent case of *Technical Education and Skills Development Authority v. Abragar*³⁴ (TESDA), the Court ratiocinates:

x x x While the failure to implead an indispensable party is not *per se* a ground for the dismissal of an action, considering that said party may still be added by order of the court, on motion of the party or on its own initiative at any stage of the action and/or such times as are just, it remains essential — *as it is jurisdictional* — that any indispensable party be impleaded in the proceedings *before the court renders judgment*.

A void judgment is in effect no judgment at all, and all acts performed under it and all claims flowing out of it are void. The judgment is vulnerable to attack even when no appeal has been taken, and does not become final in the sense of depriving a party of his right to question its validity.³⁵

In *Plasabas v. Court of Appeals*,³⁶ the Court held that a final decree would necessarily affect the rights of indispensable parties so that the Court could not proceed without their presence. Eventually, the case was remanded to the trial court. It was further held:

x x x [O]ur Supreme Court has held that when it appears of record that there are other persons interested in the subject matter of the litigation, who are not made parties to the action, it is the duty of the court to suspend the trial until such parties are made either plaintiffs or defendants. x x x Where the petition failed to join as party defendant the person interested in sustaining the proceeding in the court, the same should be dismissed. x x x When an indispensable party is not before the court, the action should be dismissed.

Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants. x x x The burden of procuring the presence of all indispensable parties is on the plaintiff. x x x The evident purpose of the rule is to prevent the multiplicity of suits by requiring the person arresting a right against the defendant to include with him, either as co-plaintiffs or as co-defendants, all persons standing in the same position, so that the whole matter in

³³ Id. at 790-792 (citation omitted).

³⁴ G.R. No. 201022, March 17, 2021.

³⁵ Id.

³⁶ 601 Phil. 669 (2009).

dispute may be determined once and for all in one litigation.³⁷ (Citations omitted)

In *Florete, Jr. v. Florete, Sr.*,³⁸ the Court explained the consequence when an indispensable party is not impleaded, to wit:

If there is a failure to implead an indispensable party, any judgment rendered would have no effectiveness. It is “precisely ‘when an indispensable party is not before the court (that) an action should be dismissed.’ The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even to those present.” The purpose of the rules on joinder of indispensable parties is a complete determination of all issues not only between the parties themselves, but also as regards other persons who may be affected by the judgment. A decision valid on its face cannot attain real finality where there is want of indispensable parties.³⁹

As discussed earlier, in *Quilatan*,⁴⁰ the Court found that there was a failure to implead all the indispensable parties to the case. To repeat, the said case includes some of the same parties to this case and involves one of the properties of the late Pedro regarding an action for nullification of tax declarations and partition of estate, but not all indispensable parties were impleaded. Eventually, due to the failure to implead all the indispensable parties, the Court remanded the case to the trial court and herein respondents were directed to implead all indispensable parties.

However, it must be emphasized that if the court already ordered the plaintiff to implead an indispensable party and such party failed to comply, the complaint may be dismissed by the court under Sec. 3, Rule 17 of the Rules of Court, which provides:

Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, **the plaintiff fails** to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or **to comply with these Rules or any order of the court**, the complaint may be dismissed upon motion of the defendant or upon the court’s own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (Emphases supplied)

³⁷ Id. at 673.

³⁸ 778 Phil. 614 (2016).

³⁹ Id. at 651, citing *Nagkakaisang Lakas ng Manggagawa sa Keihin (NLMK-OLALIA-KMU) v. Keihin Philippines Corporation*, 641 Phil. 300, 308-309 (2010).

⁴⁰ Supra note 22.

In *Dael v. Teves*,⁴¹ the judge therein ordered the amendment of the complaint so as to include the said heirs as defendants. However, therein petitioners failed to comply with the order. Due to such failure, the Court held that the judge acted within his prerogative in dismissing the complaint pursuant to Sec. 3, Rule 17 of the Rules of Court. It was also stated where the court orders the plaintiff to amend its complaint within a certain period of time in order to implead a party defendant, who is not a party to the case but who is an indispensable party, the plaintiff's refusal to comply with such order is a ground for the dismissal of the complaint.⁴²

In this case, an heir of Lorenzo, **Librada Quilatan-San Pedro**,⁴³ was not impleaded in the complaint for reconveyance and partition of respondents. Being one of the co-owners of the subject property to which respondents seek a reconveyance of the 400-sq. m. share in the partition, the Court cannot make a complete determination of the issues for a resolution of the case. Additionally, the allegations in the complaint are not merely for reconveyance of property, but for declaration of nullity of the deed of partition and proper partition of the estate. However, in this case, not all the heirs of Lorenzo and Ciriaco were impleaded.

Notably, respondents were already ordered in *Quilatan* to implead all the indispensable parties. However, they still committed the same mistake herein, albeit involving a different subject matter.

Accordingly, when an indispensable party is not impleaded in action, such as an action for reconveyance or partition, the case should be remanded to the trial court so that the indispensable party can be impleaded. As stated in the recent case of *TESDA*, there are two consequences of a finding on appeal that indispensable parties have not been joined. First, all subsequent actions of the lower courts are null and void for lack of jurisdiction; and second, the case should be remanded to the trial court for the inclusion of indispensable parties. Similarly, in *Divinagarcia*, which involved an action for partition, the correct course of action was to order the remand of the case to the RTC for the inclusion of those indispensable parties who were not impleaded and for the disposition of the case on the merits.

In light of these rulings, the Court deems it proper to remand the case to the trial court to implead all indispensable parties therein. After impleading all the indispensable parties, it is only then that the courts can

⁴¹ 220 Phil. 576 (1985).

⁴² Id. at 581.

⁴³ *Quilatan v. Heirs of Quilatan*, supra at 162.

make a proper determination of the legality of the deed of partition, the propriety of an action for reconveyance or partition, and the issue on prescription and laches. If upon order of the trial court, respondents still fail to implead all indispensable parties, then respondents' complaint before the RTC may be dismissed under Sec. 3, Rule 17 of the Rules of Court.

WHEREFORE, the petition is **PARTLY GRANTED**. The case is **REMANDED** to the Regional Trial Court of Taguig City, Branch 266. Respondents are **DIRECTED** to **AMEND** their complaint impleading all indispensable parties. The Regional Trial Court of Taguig City, Branch 266 is **DIRECTED** to **PROCEED** with the resolution of the case with dispatch.

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

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *601/10*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

201

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