



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MAJESTIC FINANCE AND
INVESTMENT CO., INC.,

Petitioner,

- versus -

JOSE D. TITO,

Respondent.

X-----X

CORNELIO MENDOZA and
PAULINA CRUZ,

Petitioners-Intervenors,

- versus -

JOSE NAZAL and ROSITA
NAZAL,

Respondents-Intervenors.

X-----X

G.R. No. 197442

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

OCT 22 2014

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated October 30, 2008 and the Resolution³ dated June 22, 2011 of the Court of Appeals (CA) in CA-G.R. CV. No. 81814, which reversed and set aside the Order⁴ dated July 28, 2003 of the Regional Trial Court of Pasig City, Branch 67 (RTC) in Civil Case No. 27958, and remanded the case to the court *a quo* for further proceedings.

¹ Rollo, pp. 8-62.

² Id. at 255-268. Penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Regalado E. Maambong and Romeo F. Barza, concurring.

³ Id. at 317-324. Penned by Associate Justice Mario V. Lopez with Associate Justices Hakim S. Abdulwahid and Noel G. Tijam, concurring.

⁴ Id. at 110-114. Penned by Judge Mariano M. Singzon, Jr.

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The Facts

Petitioner Majestic Finance and Investment Co., Inc. (Majestic) was the judgment obligee in Civil Case No. 20538, a case for rescission of contract (rescission case) filed before the Court of First Instance of Rizal, Branch 21 (CFI), now the RTC. In order to satisfy the judgment by default, the Sheriff levied upon the property of the judgment obligor, Thomas D. Cort (Cort), covered by Transfer Certificate of Title (TCT) No. 110472⁵ (subject property), and sold the same at a public auction to Paulina Cruz (Cruz), the highest bidder, for a total bid price of ₱54,460.00. After the redemption period had lapsed, Cruz secured TCT No. 241118 on January 4, 1978 in her name and, thereafter, sold the subject property to Cornelio Mendoza (Mendoza) who was issued TCT No. 241177 on January 9, 1978.⁶

On November 21, 1977, respondent Jose D. Tito (Tito) filed with the same CFI against Majestic a petition to declare the proceedings and the Decision in the rescission case null and void, docketed as Civil Case No. 27958 (annulment case).⁷ He contended that the court did not acquire jurisdiction over the person of his predecessor-in-interest, Cort,⁸ who had passed away on July 9, 1970, or almost five years (5) prior to the filing of the rescission case on January 5, 1975.⁹ His standing to file the annulment case was based on his purported ownership of the subject property, which he allegedly inherited from Cort by way of a devise under his Last Will and Testament dated June 4, 1970¹⁰ that was later probated and allowed in Westmoreland County, Pennsylvania, United States of America.¹¹

Prior to the institution of the annulment case, Tito had, however, already transmitted his interest over the subject property to spouses Jose and Rosita Nazal (Sps. Nazal) on September 13, 1977,¹² prompting the latter to join him in the proceedings as intervenors, impleading Cruz and Mendoza on April 25, 1979.¹³ Earlier, or on January 5, 1979, Mendoza filed against Sps. Nazal a case for forcible entry and another case for recovery of possession, which were dismissed on February 22, 1979¹⁴ and archived pending the resolution of the annulment case,¹⁵ respectively.

On August 16, 1979, the CFI allowed the intervention of Sps. Nazal in the annulment case,¹⁶ which order eventually attained finality as shown by

⁵ Id. at 256-257. See also Agreement to Sell; id. at 468-470.

⁶ Id. at 258-259.

⁷ Id. at 256.

⁸ Id. at 260.

⁹ Id. at 257-258.

¹⁰ Id. at 332-343.

¹¹ Id. at 257.

¹² By way of a Deed of Absolute Sale with Exchange of Real Property; id. at 348-352. See also id. at 257.

¹³ Id. at 259-260.

¹⁴ Upon Sps. Nazal's motion sans objection from Mendoza; id. at 259.

¹⁵ On October 19, 1983; id. at 260.

¹⁶ Id. at 413.

the entry of judgment issued by the Court on August 29, 1985 in G.R. No. L-69353.¹⁷ In the interim, the proceedings in the annulment case were indefinitely suspended.¹⁸

On December 9, 1987, Sps. Nazal moved that the annulment case be set for pre-trial but the motion was not acted upon.¹⁹ It appears that the records were among those gutted by fire on June 11, 1988, and none of the parties or the court did anything for a period of almost eleven (11) years.²⁰ Meanwhile, Sps. Nazal remained in possession of the subject property.²¹

Sometime in 1998, Sps. Nazal received summons in an unlawful detainer case filed by the new registered owners of the subject property, spouses Mariano and Rhodora Lim (Sps. Lim),²² which apparently prompted Sps. Nazal to set the annulment case for hearing. Learning of the loss of the records, Sps. Nazal moved for reconstitution²³ of judicial records and for revival²⁴ of the proceedings in the annulment case, which was opposed by Majestic. Later, Majestic filed an Urgent Motion to Declare Case as already Closed and Terminated with Opposition to Revive the Case,²⁵ contending, among others, that Tito, the principal petitioner in the annulment case, had lost interest in prosecuting the case and that Sps. Nazal have no personality to further prosecute the same.²⁶

In another proceeding, Sps. Nazal opposed the unlawful detainer case filed by Sps. Lim all the way to the Court, but to no avail.²⁷

The RTC Proceedings

In an Order²⁸ dated February 2, 2000 (February 2, 2000 Order), the RTC dismissed the annulment case with prejudice, and declared it closed and terminated for failure of Tito and Sps. Nazal to prosecute their claim for an unexplained and unreasonable length of time.²⁹ It held that while it was incumbent upon the Clerk of Court to include the case in the trial calendar, set the date for trial, and notify the parties thereof, these did not relieve the plaintiff of his duty to prosecute the case diligently and to call the attention

¹⁷ Entitled "*Cornelio Mendoza v. The Intermediate Appellate Court, et al.*" (Id. at 261 and 415-416.)

¹⁸ Id. at 65.

¹⁹ Id. at 261.

²⁰ Id. at 75-76.

²¹ Id. at 261.

²² Id.

²³ Through a "Motion for Reconstitution of Judicial Records" dated December 9, 1998. (Id. at 357-366.)

²⁴ Through a "Motion to Revive Case" dated December 23, 1998. (Id. at 367-374.)

²⁵ Not attached to the record of this case.

²⁶ *Rollo*, pp. 66-67.

²⁷ Id. at 262 and 417.

²⁸ Id. at 64-70. Penned by Pairing Judge Alicia P. Mariño-Co.

²⁹ Id. at 67.

of the court to calendar the case if the latter has neglected to do so because of the numerous cases it has to attend to.³⁰

Upon Sps. Nazal's motion for reconsideration,³¹ however, the RTC, in an Order³² dated August 23, 2002 (August 23, 2002 Order), set aside its earlier dismissal order "in the interest of justice." It held that as both Majestic and Sps. Nazal were guilty of inaction since 1987 after the latter's Motion to Set Case for Pre-Trial was filed, no one should be allowed to benefit from the other and the case must be allowed to proceed on the merits,³³ especially in this case where Sps. Nazal has a material interest such that it would be them, not Tito, who would be benefited or injured by the judgment in the said case.³⁴

Dissatisfied, Majestic moved for reconsideration³⁵ on September 27, 2002, which was granted in an Order³⁶ dated July 28, 2003 (July 28, 2003 Order), declaring the February 2, 2000 Order to be final and executory. The RTC ruled that an intervention is regarded as mere collateral or accessory, or ancillary to the original action, such that the dismissal of the original case necessarily includes that of the petition-in-intervention.³⁷ It further held that even if Sps. Nazal were to be considered as real parties-in-interest, the better remedy for them is to file a separate action, as principal plaintiffs, against Majestic.³⁸

Aggrieved, Sps. Nazal elevated the matter before the CA.³⁹

The CA Ruling

In a Decision⁴⁰ dated October 30, 2008, the CA reversed and set aside the RTC's July 28, 2003 Order, holding that Sps. Nazal are entitled to proceed with the prosecution of their cause of action against Majestic after having been duly allowed to intervene in the annulment case.⁴¹ It further held that to require Sps. Nazal to refile another case for the settlement of their claim will result in unnecessary delay and expense, and will entail multiplicity of suits, hence, defeat the very purpose of intervention, *i.e.*, to hear and determine at the same time all conflicting claims which may be made on the subject matter in litigation, and to expedite litigation and settle in one action and by a single judgment the whole controversy among the

³⁰ See *id.* at 69, citing *Ventura v. Baysa*, 114 Phil. 122 (1962).

³¹ Not attached to the records of this case.

³² *Rollo*, pp. 71-77. Penned by Judge Amelia A. Fabros.

³³ *Id.* at 76.

³⁴ *Id.* at 74.

³⁵ *Id.* at 78-104.

³⁶ *Id.* at 110-114. Penned by Judge Mariano M. Singzon, Jr.

³⁷ *Id.* at 113-114.

³⁸ *Id.* at 114.

³⁹ Dated August 13, 2003. (*Id.* at 115-116.)

⁴⁰ *Id.* at 255-268.

⁴¹ *Id.* at 266-267.

persons involved.⁴² Accordingly, it remanded the case to the RTC for further proceedings.⁴³

Majestic's motion for reconsideration⁴⁴ was denied by the CA in a Resolution⁴⁵ dated June 22, 2011, hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA erred in allowing Sps. Nazal to prosecute their claim against Majestic.

The Court's Ruling

The petition is meritorious.

Sps. Nazal, who were joined as intervenors in the proceedings, had already lost their right to participate therein, in view of the RTC's dismissal of the main action which was decreed pursuant to Section 3, Rule 17 of the Rules of Court,⁴⁶ stemming from the failure of the putative plaintiff, Tito, to diligently and expeditiously prosecute the same for an unjustified and unreasonable length of time. Case law states that intervention is never an independent action, but is merely ancillary and supplemental to the existing litigation. Its purpose is not to obstruct or unnecessarily delay the placid operation of the machinery of trial, but merely to afford one not an original party, who is claiming a certain right or interest in the pending case, the opportunity to appear and be joined so he could assert or protect such right or interests. In other words, the right of an intervenor should only be in aid of the right of the original party. Thus, as a general rule,⁴⁷ where the right of

⁴² Id. at 267.

⁴³ Id.

⁴⁴ Dated November 25, 2008. Id. at 269-315.

⁴⁵ Id. at 317-324.

⁴⁶ Section 3, Rule 17 of the 1997 Rules of Court provides:

SEC. 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 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 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)

Prior to the present Rules of Court, the Section 3, Rule 17 of the 1964 Rules of Court provided:

SEC. 3. *Failure to prosecute.* – If plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by court.

⁴⁷ In certain instances, however, the Court has ruled that the dismissal of the original plaintiff's action does not necessarily entail the consequent dismissal of the intervenors' petition in intervention after the intervenor has become a party to the suit, such as: (a) when the parties to the principal action has entered into a compromise without the participation of the intervenor (see *Metropolitan Bank and Trust Co. v. Presiding Judge, RTC Manila, Br. 39*, G.R. No. 89909, September 21, 1990, 189 SCRA 820, 827); or (b) when the plaintiff in the principal action was declared to be without personality to file

the latter has ceased to exist, there is nothing to aid or fight for and, consequently, the right of intervention ceases.⁴⁸

It bears pointing out that, despite having been joined in the annulment case as intervenors, Sps. Nazal should have actually been deemed as the case's plaintiffs considering that Tito had already transferred his interest over the disputed property to the former, even prior to the institution of the proceedings. Verily, where a transfer of interest was effected before the commencement of the suit – as in this case – the transferee must necessarily be the plaintiff (or defendant, as the case may be)⁴⁹ as it is he who stands to be benefited or injured by the judgment in the suit.⁵⁰

Thus, on the supposition that they were the case's plaintiffs, Sps. Nazal should bear the obligation imputed by the RTC upon Tito to diligently and expeditiously prosecute the action within a reasonable length of time. The RTC, however, pointed out that Sps. Nazal failed in this regard. As the records would bear, while Sps. Nazal moved to set the case for pre-trial on **December 9, 1987**, no further action was taken by them after the court *a quo* failed to calendar the case and set the same for pre-trial. Disconcerting is the fact that it took Sps. Nazal almost **eleven (11) years**, or on **October 20, 1998** to move for the setting of the case for hearing, as they were apparently compelled to act only upon the threat of being dispossessed of the subject property with the filing of the unlawful detainer case by the new registered owners, Sps. Lim. Notably, while under both the present⁵¹ and the old⁵² Rules of Court, the clerk of court has the duty to set the case for pre-trial, the same does not relieve the plaintiffs of their own duty to prosecute the

the action (see *Eagle Realty Corp. v. Rep. of the Phils.*, 579 Phil. 355, 370-371 [2008]). In such cases, the intervenors' petition showing it to be entitled to affirmative relief will be preserved and heard regardless of the disposition of the principal action. However, none of the afore-cited circumstances obtain in the present case.

⁴⁸ *Cariño v. Ofilada*, G.R. No. 102836, January 18, 1993, 217 SCRA 206, 215 (citations omitted), as cited in *B. Sta. Rita & Co., Inc. v. Gueco*, G.R. No. 193078, August 28, 2013, 704 SCRA 320, 329.

⁴⁹ Regalado, Florenz D., *Remedial Law Compendium*, Volume I, Tenth Edition (2009), p. 110.

⁵⁰ See Section 2, Rule 3 of the 1997 Rules of Court which reads:

SEC. 2. *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

⁵¹ While under Section 1, Rule 18 of the 1997 Rules of Court, as amended, it is the duty of the plaintiff, after the last pleading has been served and filed, to **promptly move *ex parte* that the case be set for pre-trial**, A.M. No. 03-1-09-SC, RE: PROPOSED RULE ON GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES (August 16, 2004) provides:

Within five (5) days from date of filing of the reply, the plaintiff must promptly move *ex parte* that the case be set for pre-trial conference. **If the plaintiff fails to file said motion within the given period, the Branch [Clerk of Court] shall issue a notice of pre-trial.** (Emphases supplied)

(See also *Eloisa Merchandising, Inc. v. Banco de Oro Universal Bank*, G.R. No. 192716, June 13, 2012, 672 SCRA 533, 545.)

⁵² Section 5, Rule 20 of the 1964 Rules of Court provides:

SEC. 5. *Pre-trial calendar.*— The court shall cause to be prepared a pre-trial calendar of cases for consideration as above provided. Upon the submission of the last pleading in a particular case, **it shall be the duty of the clerk of court to place such case in the pre-trial calendar.** (Emphasis supplied)


case diligently.⁵³ Truth be told, the expeditious disposition of cases is as much the duty of the plaintiff as the court.⁵⁴

Furthermore, the Court has perused the records and found no sufficient justification for Sps. Nazal's inordinately long inaction over the annulment case. Other than the allegation that their counsel assured them that their claim of ownership was well-founded,⁵⁵ they failed to even offer an explanation as to why they had to wait for more than a decade to proceed with the case. As the Court sees it, this is an unreasonably long time for the defendant to wait for the outcome of a trial that has yet to commence, especially as the case had been filed by their predecessor-in-interest, Tito, as early as November 21, 1977.⁵⁶

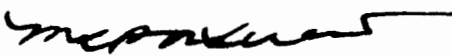
All told, whether one treats Sps. Nazal as mere intervenors or, properly speaking, as the plaintiffs in the annulment case, the Court finds no cogent reason as to why the same should not be dismissed. In fine, Sps. Nazal are precluded from prosecuting their claim against Majestic.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 30, 2008 and the Resolution dated June 22, 2011 of the Court of Appeals in CA-G.R. CV. No. 81814 are hereby **REVERSED** and **SET ASIDE**. A new judgment is entered **DISMISSING** Civil Case No. 27958.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson

⁵³ See *Eloisa Merchandising, Inc. v. Banco de Oro Universal Bank*, supra note 51, at 547.

⁵⁴ *Ko v. Philippine National Bank*, 515 Phil. 276, 282 (2006).

⁵⁵ *Rollo*, p. 416.

⁵⁶ At that time, the CFI still has the judicial competence and authority to take cognizance of an action to annul the judgment of another court of concurrent jurisdiction or of another branch. (See *Dulap v. CA*, 149 Phil. 636 [1971], as cited in the cases of *Singson v. Isabela Sawmill*, 177 Phil. 575, 592 [1979]; *Francisco v. Judge Aquino*, 164 Phil. 152, 158 [1976]; *Gianan vs. Hon. Imperial*, 154 Phil. 705, 709-712 [1974]; emphasis and underscoring supplied.)

Upon the effectivity of Batas Pambansa Bilang 129, otherwise known as "The Judiciary Reorganization Act of 1980" on August 14, 1981, the exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts was reposed in the Court of Appeals. However, it was only in the 1997 Rules of Court that it provided for a specific rule for such kind of actions.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice