



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ESTRELLA ADUAN ORPIANO,  
*Petitioner,*

G.R. No. 178611

Present:

- versus -

CARPIO, *Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
PERLAS-BERNABE, *JJ.*

SPOUSES ANTONIO C. TOMAS  
and MYRNA U. TOMAS,  
*Respondents.*

Promulgated:  
JAN 14 2013

X ----- X

DECISION

DEL CASTILLO, *J.*:

Considerations of expediency cannot justify a resort to procedural shortcuts. The end does not justify the means; a meritorious case cannot overshadow the condition that the means employed to pursue it must be in keeping with the Rules.

Assailed in this Petition for Review on *Certiorari*<sup>1</sup> are the May 7, 2007 Decision<sup>2</sup> of the Court of Appeals (CA) which dismissed the petition in CA-G.R. SP No. 97341, and its June 28, 2007 Resolution<sup>3</sup> denying petitioner's motion for reconsideration. *Mull*

<sup>1</sup> *Rollo*, pp. 10-27.

<sup>2</sup> Id. at 79-90; penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Noel G. Tijam and Sisinando E. Villon.

<sup>3</sup> Id. at 110; penned by Associate Justice Sisinando E. Villon and concurred in by Associate Justices Noel G. Tijam and Arcangelita Romilla-Lontok.

***Factual Antecedents***

Petitioner Estrella Aduan Orpiano (Estrella) is the widow of Alejandro Orpiano (Alejandro). Part of their conjugal estate is an 809.5-square meter lot in Quezon City covered by Transfer Certificate of Title (TCT) No. RT-23468 (the lot).

In 1979, a Decision was rendered by the defunct Juvenile and Domestic Relations Court (JDRC) of Quezon City declaring Estrella an absent/absentee spouse and granting Alejandro the authority to sell the lot. The JDRC Decision was annotated on the back of TCT No. RT-23468.

On March 19, 1996, Alejandro sold the lot on installment basis to respondent spouses Antonio and Myrna Tomas (the Tomas spouses) for ₱12,170,283.00. That very same day, a new title – TCT No. N-152326 – was issued in the name of the Tomas spouses despite the fact that the purchase price has not been paid in full, the spouses having been given until December of that same year to complete their payment.

On October 28, 1996, Alejandro filed Civil Case No. Q-96-29261 (the collection case) in the Regional Trial Court (RTC) of Quezon City, Branch 226 (the collection court), seeking collection of the balance of the price in the amount of ₱4,314,100.00 supposedly left unpaid by the Tomas spouses, with damages.<sup>4</sup>

During the pendency of the collection case, Alejandro passed away. His heirs, Estrella included, were substituted in his stead in the collection case. Estrella moved to amend the Complaint to one for rescission/annulment of sale and cancellation of title, but the court denied her motion. She next moved to be dropped as party plaintiff but was again rebuffed.

---

<sup>4</sup> CA rollo, pp. 55-59. Complaint in Civil Case No. Q-96-29261.

On June 11, 2005, Estrella filed Civil Case No. Q-05-56216 (the annulment case) for annulment of the March 1996 sale and cancellation of TCT No. N-152326, with damages, against the Tomas spouses and the Register of Deeds of Quezon City which was impleaded as a nominal party.<sup>5</sup> The case was raffled to Branch 97 of the Quezon City RTC (the annulment court). In her Complaint, Estrella claimed that the 1979 declaration of her absence and accompanying authority to sell the lot were obtained by Alejandro through misrepresentation, fraud and deceit, adding that the May 1979 JDRC Decision was not published as required by law and by the domestic relations court. Thus, the declaration of absence and Alejandro's authority to sell the lot are null and void. Correspondingly, the ensuing sale to the Tomas spouses should be voided, and TCT No. N-152326 cancelled.

In their Answer to the annulment Complaint, the Tomas spouses prayed for the dismissal thereof on the ground of forum shopping, arguing that the filing of the annulment case was prompted by the denial of Estrella's motion initiated in the collection case to amend the Complaint to one for annulment of sale. The annulment case is Estrella's attempt at securing a remedy which she could not obtain in the collection case. The Tomas spouses added that the dismissal of the annulment case would preclude the possibility that the two courts might render conflicting decisions.

After pre-trial in the annulment case, the court proceeded to tackle the issue of forum shopping. The parties submitted their respective memoranda touching on the sole issue of whether Estrella is guilty of forum shopping.

### ***Ruling of the Regional Trial Court***

On September 25, 2006, the trial court issued an Order<sup>6</sup> dismissing the annulment case. It sustained the view taken by the Tomas spouses that Estrella

---

<sup>5</sup> Id. at 22-26. Complaint in Civil Case No. Q-05-56216.

<sup>6</sup> Id. at 37-38; penned by Judge Bernelito R. Fernandez.

filed the annulment case only because the collection court denied her motion to amend the case to one for annulment of the sale, and thus the annulment case was Estrella's attempt at obtaining a remedy which she could not secure in the collection case. It added that because the two cases involve the same subject matter, issues, and parties, there indeed is a possibility that conflicting decisions could be rendered by it and the collection court, the possibility made even greater because the two cases involve antithetical remedies.

Estrella moved for reconsideration but the court was unmoved.

### ***Ruling of the Court of Appeals***

On December 27, 2006, Estrella filed with the CA a Petition for *Certiorari*<sup>7</sup> questioning the September 25, 2006 Order of the annulment court. The appellate court, however, could not be persuaded. Finding no grave abuse of discretion in the annulment court's dismissal of the annulment case, the CA found that Estrella was indeed guilty of forum shopping in filing the annulment suit while the collection case was pending. Applying the test articulated in a multitude of decided cases – that where a final judgment in one case will amount to *res judicata* in another – it follows that there is forum shopping. The CA held that a final judgment in the collection case ordering the Tomas spouses to pay the supposed balance of the price will necessarily result in a finding that the sale between Alejandro and the Tomas spouses is a valid sale. This then would prevent a declaration of nullity of the sale in the annulment case.

Accordingly, the CA dismissed Estrella's Petition for *Certiorari*. Her Motion for Reconsideration was likewise denied, hence the present Petition.

### **Issue**

The sole issue to be resolved in this case is whether there is indeed forum

---

<sup>7</sup> Rollo, pp. 58-77.

shopping.

***Petitioner's Arguments***

Estrella argues that it was Alejandro and not she who initiated the collection case, and that she, their two children, and Alejandro's four illegitimate children were merely substituted in the case as his heirs by operation of law; thus, she should not be bound by the collection case. She claims that in the first place, she was not privy to Alejandro's sale of the lot to the Tomas spouses. Having been unwillingly substituted in the collection case, she forthwith moved to amend the Complaint in order to include, as one of the remedies sought therein, annulment of the sale insofar as her conjugal share in the lot is concerned. But the court denied her motion. Next, she moved to be dropped or stricken out as plaintiff to the collection case, but again, the trial court rebuffed her.

Estrella maintains that on account of these repeated denials, she was left with no other alternative but to institute the annulment case. She claims that since the collection case does not further her interest — which is to seek annulment of the sale and recover her conjugal share — and the collection court would not grant her motions to amend and to be dropped or stricken out as party plaintiff therein, she thus has a right to maintain a suit to have the sale annulled. It is therefore erroneous for the CA to state that she initiated the annulment suit only for the purpose of obtaining a favorable ruling in said court, which she could not achieve in the collection court.

She further adds that there is obviously no identity of parties, cause of action, or reliefs prayed for between the collection and annulment cases; the two involve absolutely opposite reliefs. She stresses the fact that she is seeking annulment of the sale with respect only to her conjugal share, and not those of her co-heirs.

***Respondents' Arguments***

The Tomas spouses, apart from echoing the trial court and the CA, emphasize that the rule prohibiting forum shopping precisely seeks to avoid the situation where the two courts – the collection court and the annulment court – might render two separate and contradictory decisions. If the annulment case is allowed to proceed, then it could result in a judgment declaring the sale null and void, just as a decision in the collection case could be issued ordering them to pay the balance of the price, which is tantamount to a declaration that the sale is valid.

They add that Estrella could no longer question the 1979 JDRC Decision, having failed to challenge the same immediately upon obtaining notice thereof; she did not even bother to have her declaration of absence lifted. They claim that after the lapse of 26 years, prescription has finally set in. They likewise argue that if both cases are allowed to remain pending, a ridiculous situation could arise where, after having paid the balance as ordered by the collection court, they could lose not only the lot but also their payments in case a decision in the annulment court is rendered nullifying and canceling the sale and ordering the return of the lot to Alejandro's heirs, Estrella included.

**Our Ruling**

The petition must be denied.

“Forum shopping is defined as an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for *certiorari*. It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. x x x It is expressly prohibited x x x because it trifles with and abuses court processes, degrades the administration of justice, and

congests court dockets. A willful and deliberate violation of the rule against forum shopping is a ground for summary dismissal of the case, and may also constitute direct contempt.”<sup>8</sup>

Although the Court believes that Estrella was not prompted by a desire to trifle with judicial processes, and was acting in good faith in initiating the annulment case, still the said case should be dismissed because it produces the same effect which the rule on forum shopping was fashioned to preclude. If the collection case is not dismissed and it, together with the annulment case, proceeds to finality, not only do we have a possibility of conflicting decisions being rendered; an unfair situation, as envisioned by the Tomas spouses, might arise where after having paid the balance of the price as ordered by the collection court, the cancellation of the TCT and return of the property could be decreed by the annulment court. Besides, allowing the two cases to remain pending makes litigation simply a game of chance where parties may hedge their position by betting on both sides of the case, or by filing several cases involving the same issue, subject matter, and parties, in the hope of securing victory in at least one of them. But, as is already well known, the “[t]rek to [j]ustice is not a game of chance or skill but rather a quest for truth x x x.”<sup>9</sup>

Moreover, allowing Estrella to proceed with the annulment case while the collection case is still pending is like saying that she may accept the deed of sale and question it at the same time. For this is the necessary import of the two pending cases: joining as plaintiff in the collection case implies approval of the deed, while suing to declare it null and void in the annulment court entails a denunciation thereof. This may not be done. “A person cannot accept and reject the same instrument”<sup>10</sup> at the same time. It must be remembered that “the absence of the consent of one (spouse to a sale) renders the entire sale null and void,

---

<sup>8</sup> *Sameer Overseas Placement Agency, Inc. v. Santos*, G.R. No. 152579, August 4, 2009, 595 SCRA 67, 76-77.

<sup>9</sup> *People v. Faustino*, 394 Phil. 236, 238 (2000).

<sup>10</sup> *Associated Bank v. Court of Appeals*, 353 Phil. 702, 720 (1998).

including the portion of the conjugal property pertaining to the spouse who contracted the sale.”<sup>11</sup>

The Court realizes the quandary that Estrella — motivated by the solitary desire to protect her conjugal share in the lot from what she believes was Alejandro’s undue interference in disposing the same without her knowledge and consent — finds herself in. While raring to file the annulment case, she has to first cause the dismissal of the collection case because she was by necessity substituted therein by virtue of her being Alejandro’s heir; but the collection court nonetheless blocked all her attempts toward such end. The collection court failed to comprehend her predicament, her need to be dropped as party to the collection case in order to pursue the annulment of the sale.

As plaintiff in the collection case, Estrella – though merely succeeding to Alejandro’s rights – was an indispensable party, or one without whom no final determination can be had in the collection case.<sup>12</sup> Strictly, she may not be dropped from the case. However, because of her dual identity, first as heir and second as owner of her conjugal share, she has been placed in the unique position where she has to succeed to her husband’s rights, even as she must protect her separate conjugal share from Alejandro’s perceived undue disposition. She may not seek to amend the cause of action in the collection case to one for annulment of sale, because this adversely affects the interests of her co-heirs, which is precisely to obtain payment of the supposed balance of the sale price.

Nor may Estrella simultaneously maintain the two actions in both capacities, as heir in the collection case and as separate owner of her conjugal share in the annulment case. This may not be done, because, as was earlier on

---

<sup>11</sup> *Alinas v. Alinas*, G.R. No. 158040, April 14, 2008, 551 SCRA 154, 166, citing *Homeowners Savings & Loan Bank v. Dailo*, 493 Phil. 436, 442 (2005).

<sup>12</sup> RULES OF COURT, Rule 3, Secs. 2 and 7 provide:

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.

Sec. 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.



declared, this amounts to simultaneously accepting and rejecting the same deed of sale. Nor is it possible to prosecute the annulment case simultaneously with the collection case, on the premise that what is merely being annulled is the sale by Alejandro of Estrella's conjugal share. To repeat, the absence of the consent of one spouse to a sale renders the *entire* sale null and void, *including* the portion of the conjugal property pertaining to the spouse who contracted the sale.

Undoubtedly, Estrella had the right to maintain the annulment case as a measure of protecting her conjugal share. There thus exists a just cause for her to be dropped as party plaintiff in the collection case so that she may institute and maintain the annulment case without violating the rule against forum shopping. Unless this is done, she stands to lose her share in the conjugal property. But the issue of whether the sale should be annulled is a different matter altogether.

Under the Rules, parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and *on such terms as are just*.<sup>13</sup> Indeed, it would have been just for the collection court to have allowed Estrella to prosecute her annulment case by dropping her as a party plaintiff in the collection case, not only so that she could protect her conjugal share, but also to prevent the interests of her co-plaintiffs from being adversely affected by her conflicting actions in the same case. By seeking to be dropped from the collection case, Estrella was foregoing collection of her share in the amount that may be due and owing from the sale. It does not imply a waiver in any manner that affects the rights of the other heirs.

While Estrella correctly made use of the remedies available to her – amending the Complaint and filing a motion to drop her as a party – she committed a mistake in proceeding to file the annulment case directly after these remedies were denied her by the collection court without first questioning or addressing the propriety of these denials. While she may have been frustrated by

---

<sup>13</sup> RULES OF COURT, Rule 3, Section 11.

the collection court's repeated rejection of her motions and its apparent inability to appreciate her plight, her proper recourse nevertheless should have been to file a petition for *certiorari* or otherwise question the trial court's denial of her motion to be dropped as plaintiff, citing just reasons which call for a ruling to the contrary. Issues arising from joinder or misjoinder of parties are the proper subject of *certiorari*.<sup>14</sup>

In fine, we reiterate that considerations of expediency cannot justify a resort to procedural shortcuts. The end does not justify the means; a meritorious case cannot overshadow the condition that the means employed to pursue it must be in keeping with the Rules.

**WHEREFORE**, premises considered, the Petition is **DENIED** for lack of merit.

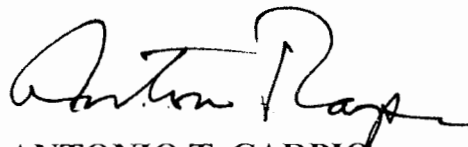
**SO ORDERED.**



**MARIANO C. DEL CASTILLO**

*Associate Justice*

**WE CONCUR:**



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



**ARTURO D. BRION**

*Associate Justice*



**JOSE PORTUGAL PEREZ**

*Associate Justice*

---

<sup>14</sup> See *Sps. Perez v. Hermano*, 501 Phil. 397, 408 (2005).

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*


### ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

### CERTIFICATION

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

  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

