



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PETRONIO CLIDORO, DIONISIO
CLIDORO, LOLITA CLIDORO,
CALIXTO CARDANO, JR.,
LOURDES CLIDORO-LARIN,
MATEO CLIDORO and MARLIZA
CLIDORO-DE UNA,

Petitioners,

- versus -

AUGUSTO JALMANZAR,
GREGORIO CLIDORO, JR.,
SENECA CLIDORO-CIOCSON,
MONSERAT CLIDORO-QUIDAY,
CELESTIAL CLIDORO-BINASA,
APOLLO CLIDORO, ROSALIE
CLIDORO-CATOLICO, SOPHIE
CLIDORO, and JOSE CLIDORO, JR.,

Respondents.

G.R. No. 176598

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,^{*}
MENDOZA, and
LEONEN, JJ.

Promulgated:

July 9, 2014

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DECISION

PERALTA, J.:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision¹ of the Court of Appeals (CA), dated October 17, 2006, and its Resolution² dated February 6, 2007, denying herein petitioner's motion for reconsideration of the Decision, be reversed and set aside.

^{*} Designated Acting Member, per Special Order No. 1691 dated May 22, 2014.

¹ Penned by former Associate Justice Estela M. Perlas-Bernabe (now Associate Justice of the Supreme Court), with Associate Justices Renato C. Dacudao and Rosmari D. Carandang, concurring; *rollo*, pp. 29-35.

² *Id.* at 36-37.

The antecedent facts, as set forth in the CA Decision, are undisputed, to wit:

The instant appeal stemmed from a complaint, docketed as Civil Case No. T-2275 for revival of judgment filed by Rizalina Clidoro, et al. against Onofre Clidoro, et al., praying that the Decision dated November 13, 1995 of the Court of Appeals (CA) in CA-G.R. CV No. 19831, which affirmed with modification the RTC Decision dated March 10, 1988 in Civil Case No. T-98 for partition, be revived and that the corresponding writ of execution be issued. The dispositive portion of the CA Decision reads:

The estate of the late Mateo Clidoro, excepting that described in paragraph (i) of the Complaint, is hereby ordered partitioned in the following manner:

1. One-fifth portion to the Plaintiffs-Appellees, by right of representation to the hereditary share of Gregorio Clidoro, Sr.;
2. One-fifth portion to Defendant-Appellant Antonio Clidoro or his legal heirs;
3. One-fifth portion to Appellant Josaphat Clidoro;
4. One-fifth portion to Appellant Aida Clidoro;
5. One-tenth portion to Gregoria Clidoro, as her legitime in the hereditary share of Onofre Clidoro; and
6. One-tenth portion to Catalino Morate, as successor-in-interest to the legitime of Consorcia Clidoro.

SO ORDERED.

On September 3, 2003, defendants-appellees except Gregoria Clidoro-Palanca, moved to dismiss the said complaint on the following grounds: “1.) The petition, not being brought up against the real parties-in-interest, is dismissible for lack of cause of action; 2.) The substitution of the parties defendant is improper and is not in accordance with the rules; 3.) Even if the decision is ordered revived, the same cannot be executed since the legal requirements of Rule 69, Section 3 of the 1997 Rules of Civil Procedure has not been complied with; and 4.) The Judgment of the Honorable Court ordering partition is merely interlocutory as it leaves something more to be done to complete the disposition of the case.”

After the filing of plaintiffs-appellants' Comment/Opposition to the Motion to Dismiss, defendants-appellees' Reply, plaintiffs-appellants' Rejoinder and defendants-interested parties' Sur-Rejoinder, the RTC issued the assailed Order dated December 8, 2003 dismissing the instant complaint for lack of cause of action, the pertinent portion of which reads:

“ x x x

The complaint shows that most of the parties-plaintiffs, parties-defendants and interested parties are already deceased and have no more natural or material existence. This is contrary to the provision of the Rules (Sec. 1, Rule 3, 1997 Rules of Civil Procedure). They could no longer be considered as the real parties-in-interest. Besides, pursuant to Sec. 3, Rule 3 (1997 Rules of Civil Procedure), where the action is allowed to be prosecuted or defended by a representative or someone

acting in fiduciary capacity, the beneficiary shall be included in the title of the case. In the instant case the beneficiaries are already deceased persons. Also, the Complaint states that they were the original parties in Civil Case No. T-98 for Partition, but this is not so (paragraph 2). Some of the parties are actually not parties to the original case, but representing the original parties who are indicated as deceased.

From the foregoing, the Court finds the instant complaint to be flawed in form and substance. The suit is not brought by the real parties-in-interest, thus a motion to dismiss on the ground that the complaint states no cause of action is proper (Section 1(g), Rule 16).

WHEREFORE, the instant complaint is ordered DISMISSED for lack of cause of action.

SO ORDERED.”

Plaintiffs-appellants moved for reconsideration of the foregoing Order with prayer to admit the attached Amended Complaint impleading the additional heirs of the interested party Josaphat Clidoro and the original plaintiffs Rizalina Clidoro-Jalmanzar, Cleneo Clidoro and Aristoteles Clidoro. The same was, however, denied in the second assailed order. x x x³

Respondents then appealed to the CA, and on October 17, 2006, the CA promulgated its Decision reversing and setting aside the Orders of the RTC, and remanding the case to the RTC for further proceedings. Petitioners’ motion for reconsideration of the Decision was denied *per* Resolution dated February 6, 2007.

Hence, the present petition where the following issues are raised:

A. THE HONORABLE COURT OF APPEALS FAILED TO CONSIDER THAT THERE WAS NO PROPER SUBSTITUTION OF PARTIES IN THE INSTANT ACTION FOR REVIVAL OF JUDGMENT.

B. THE HONORABLE COURT OF APPEALS ERRED IN CONSIDERING THE RESPONDENTS AS WELL AS THE PETITIONERS AS THE REAL PARTIES-IN-INTEREST.

C. THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT AMENDMENT TO PLEADINGS WAS PROPERLY MADE AND IS APPLICABLE TO THE INSTANT ACTION.

D. THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THERE WAS MERE MISJOINDER OF PARTIES IN THE INSTANT ACTION.⁴

³ *Id.* at 30-33.

⁴ *Id.* at 14.

The petition deserves scant consideration.

Reduced to its essence, the pivotal issue here is whether the complaint for revival of judgment may be dismissed for lack of cause of action as it was not brought by or against the real parties-in-interest.

First of all, the Court emphasizes that lack of cause of action is not enumerated under Rule 16 of the Rules of Court as one of the grounds for the dismissal of a complaint. As explained in *Vitangcol v. New Vista Properties, Inc.*,⁵ to wit:

Lack of cause of action is, however, not a ground for a dismissal of the complaint through a motion to dismiss under Rule 16 of the Rules of Court, for **the determination of a lack of cause of action can only be made during and/or after trial**. What is dismissible via that mode is failure of the complaint to state a cause of action. Sec. 1(g) of Rule 16 of the Rules of Court provides that **a motion may be made on the ground "that the pleading asserting the claim states no cause of action."**

The rule is that in a motion to dismiss, a defendant hypothetically admits the truth of the material allegations of the ultimate facts contained in the plaintiff's complaint. When a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should, as rule, be based only on the facts alleged in the complaint. x x x

x x x x

In a motion to dismiss for failure to state a cause of action, the focus is on the sufficiency, not the veracity, of the material allegations. **The test of sufficiency of facts alleged in the complaint constituting a cause of action lies on whether or not the court, admitting the facts alleged, could render a valid verdict in accordance with the prayer of the complaint.** x x x⁶

Again, in *Manaloto v. Veloso III*,⁷ the Court reiterated as follows:

When the ground for dismissal is that the complaint states no cause of action, such fact can be determined only from the facts alleged in the complaint and from no other, and the court cannot consider other matters *aliunde*. The test, therefore, is whether, assuming the allegations of fact in the complaint to be true, a valid judgment could be rendered in accordance with the prayer stated therein.⁸

⁵ 616 Phil. 73 (2009).

⁶ *Vitangcol v. New Vista Properties, Inc.*, *supra*, at 85-87. (Emphasis supplied)

⁷ G.R. No. 171365, October 6, 2010, 632 SCRA 347.

⁸ *Manaloto v. Veloso III*, *supra*, at 362. (Emphasis supplied)

In this case, it was alleged in the complaint for revival of judgment that the parties therein were also the parties in the action for partition. Applying the foregoing test of hypothetically admitting this allegation in the complaint, and not looking into the veracity of the same, it would then appear that the complaint sufficiently stated a cause of action as the plaintiffs in the complaint for revival of judgment (hereinafter respondents), as the prevailing parties in the action for partition, had a right to seek enforcement of the decision in the partition case.

It should be borne in mind that the action for revival of judgment is a totally separate and distinct case from the original Civil Case No. T-98 for Partition. As explained in *Saligumba v. Palanog*,⁹ to wit:

An action for revival of judgment is no more than a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without it being executed upon motion of the prevailing party. It is not intended to re-open any issue affecting the merits of the judgment debtor's case nor the propriety or correctness of the first judgment. **An action for revival of judgment is a new and independent action, different and distinct from** either the recovery of property case or the reconstitution case [in this case, **the original action for partition**], wherein **the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered.** x x x¹⁰

With the foregoing in mind, it is understandable that there would be instances where the parties in the original case and in the subsequent action for revival of judgment would not be exactly the same. The mere fact that the names appearing as parties in the the complaint for revival of judgment are different from the names of the parties in the original case would not necessarily mean that they are not the real parties-in-interest. What is important is that, as provided in Section 1, Rule 3 of the Rules of Court, they are “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.” Definitely, as the prevailing parties in the previous case for partition, the plaintiffs in the case for revival of judgment would be benefited by the enforcement of the decision in the partition case.

Moreover, it would appear that petitioners are mistaken in alleging that respondents are not the real parties-in-interest. The complaint for revival of judgment impleaded the following parties:

⁹ 593 Phil. 420 (2008).

¹⁰ *Saligumba v. Palanog*, *supra*, at 426-427. (Emphasis supplied)

PLAINTIFFS	DEFENDANTS
1. Rizalina Clidoro (deceased) rep. herein by Augusto Jalmanzar	1. Onofre Clidoro (deceased) rep. by Gregoria Clidoro-Palanca (daughter)
2. Gregorio Clidoro, Jr.	2. Antonio Clidoro (deceased) herein rep. by Petronio Clidoro,
3. Urbana Costales (deceased)	3. Carmen Clidoro-Cardano, rep. by Calixto Cardano, Jr. (husband)
4. Cleneo Clidoro (deceased)	4. Dionisio Clidoro
5. Seneca Clidoro Ciocson	5. Lourdes Clidoro-Larin
6. Monserrat Clidoro	6. Lolita Clidoro
7. Celestial Clidoro	7. Mateo Clidoro
8. Aristoteles Clidoro (deceased)	INTERESTED PARTIES
9. Apollo Clidoro	1. Aida Clidoro (deceased)
10. Rosalie Clidoro	2. Josaphat Clidoro (deceased), herein rep. by Marliza Clidoro-De Una
11. Sophie Clidoro	
12. Jose Clidoro, Jr.	

On the other hand, the parties to the original case for partition are named as follows:

PLAINTIFFS	DEFENDANTS
1. Rizalina Clidoro	1. Onofre Clidoro
2. Gregorio Clidoro, Jr.	2. Antonio Clidoro
3. Sofia Cerdena	INTERESTED PARTIES
4. Urbana Costales	1. Aida Clidoro
5. Cleneo Seneca	2. Josaphat Clidoro
6. Monserrat Clidoro	
7. Celestial Clidoro	
8. Aristoteles Clidoro	
9. Apollo Clidoro	
10. Rosalie Clidoro	
11. Sophie Clidoro	
12. Jose Clidoro, Jr.	


A comparison of the foregoing would show that almost all of the plaintiffs in the original case for partition, in whose favor the court adjudged certain shares in the estate of deceased Mateo Clidoro, are also the plaintiffs in the action for revival of judgment. Meanwhile, the defendants impleaded in the action for revival are allegedly the representatives of the defendants in the original case, and this appears to hold water, as Gregoria Clidoro-Palanca, named as the representative of defendant Onofre Clidoro in the complaint for revival of judgment, was also mentioned and awarded a portion of the estate in the judgment in the original partition case. In fact, the trial court itself stated in its Order¹¹ of dismissal dated December 8, 2003, that “[s]ome of the parties are actually not parties to the original case, **but representing the original parties** who are indicated as deceased.”

In *Basbas v. Sayson*,¹² the Court pointed out that even just one of the co-owners, by himself alone, can bring an action for the recovery of the co-owned property, even through an action for revival of judgment, because the enforcement of the judgment would result in such recovery of property. Thus, as in *Basbas*, it is not necessary in this case that all of the parties, in whose favor the case for partition was adjudged, be made plaintiffs to the action for revival of judgment. Any which one of said prevailing parties, who had an interest in the enforcement of the decision, may file the complaint for revival of judgment, even just by himself.

Verily, the trial court erred in dismissing the complaint for revival of judgment on the ground of lack of, or failure to state a cause of action. The allegations in the complaint, regarding the parties' interest in having the decision in the partition case executed or implemented, sufficiently state a cause of action. The question of whether respondents were the real parties-in-interest who had the right to seek execution of the final and executory judgment in the partition case should have been threshed out in a full-blown trial.

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals, dated October 17, 2006, and its Resolution dated February 6, 2007 in CA-G.R. No. 82209, are hereby **AFFIRMED** *in toto*.


SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

¹¹ *Rollo*, p. 114. (Emphasis supplied)

¹² G.R. No. 172660, August 24, 2011, 656 SCRA 151, 173.

WE CONCUR:



PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.

Associate Justice



JOSE CATRAL MENDOZA

Associate Justice



MARVIC MARIO VICTOR F. LEONEN

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.



PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division

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