



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

MA. ELENA R. G.R. No. 196750
DIVINAGRACIA, as
Administratrix of the ESTATE
OF THE LATE SANTIAGO C.
DIVINAGRACIA,

Petitioner,

Present:

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

- versus -

CORONACION PARILLA,
CELESTIAL NOBLEZA,
CECILIA LELINA,
CELEDONIO NOBLEZA, and
MAUDE NOBLEZA,

Respondents.

Promulgated:

MAR 11 2015

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated March 26, 2009 and the Resolution³ dated April 6, 2011 of the Court of Appeals (CA) in CA-G.R. CV. No. 80167, which set aside the Decision⁴ dated November 29, 2002 and the Order⁵ dated April 4, 2003 of the Regional Trial Court of Iloilo City, Branch 31 (RTC) in Civil Case No. 19003 and, consequently, dismissed Santiago C. Divinagracia's (Santiago) complaint for judicial partition.

¹ *Rollo*, pp. 3-21.

² *Id.* at 27-45. Penned by Associate Justice Florito S. Macalino with Executive Justice Antonio L. Villamor and Associate Justice Stephen C. Cruz concurring.

³ *Id.* at 47-48. Penned by Associate Justice Edgardo L. Delos Santos with Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Ingles concurring.

⁴ *Id.* at 167-182. Penned by Judge Rene S. Hortillo.

⁵ *Id.* at 202-203.

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The Facts

Conrado Nobleza, Sr. (Conrado, Sr.) owned a 313-square meter parcel of land located at Cor. Fuentes-Delgado Streets, Iloilo City denominated as Lot 133-B-1-A and covered by Transfer Certificate of Title (TCT) No. T-12255 (subject land).⁶ During his lifetime, he contracted two marriages: (a) the first was with Lolita Palermo with whom he had two (2) children, namely, Cresencio and Conrado, Jr.; and (b) the second was with Eusela Niangar with whom he had seven (7) children, namely, Mateo, Sr., Coronacion, Cecilia, Celestial, Celedonio, Ceruleo,⁷ and Cebeleo, Sr. Conrado, Sr. also begot three (3) illegitimate children, namely, Eduardo, Rogelio, and Ricardo.⁸ Mateo, Sr. pre-deceased Conrado, Sr. and was survived by his children Felcon, Landelin, Eusela, Giovanni, Mateo, Jr., Tito, and Gaylord. Cebeleo, Sr. also pre-deceased his father and was survived by his wife, Maude, and children Cebeleo, Jr. and Neobel.⁹

According to Santiago, upon Conrado, Sr.'s death, Cresencio, Conrado, Jr., Felcon (in representation of his father, Mateo, Sr., and his siblings), Coronacion, Celestial, Cecilia, Rogelio, Eduardo, and Ricardo sold their respective interests over the subject land to Santiago for a consideration of ₱447,695.66, as embodied in a Deed of Extrajudicial Settlement or Adjudication with Deed of Sale¹⁰ dated November 22, 1989 (subject document),¹¹ which was, however, not signed by the other heirs who did not sell their respective shares, namely, Ceruleo, Celedonio, and Maude (in representation of his husband, Cebeleo, Sr., and their children).¹² On December 22, 1989, the same parties executed a Supplemental Contract¹³ whereby the vendors-heirs and Santiago agreed that out of the aforesaid consideration, only ₱109,807.93 will be paid up front, and that Santiago will only pay the remaining balance of ₱337,887.73 upon the partition of the subject land.¹⁴ However, Santiago was not able to have TCT No. T-12255 cancelled and the subject document registered because of Ceruleo, Celedonio, and Maude's refusal to surrender the said title. This fact, coupled with Ceruleo, Celedonio, and Maude's failure to partition the subject land, prompted Santiago to file a Complaint¹⁵ dated January 3, 1990 for judicial partition and for receivership.¹⁶

⁶ See *id.* at 30-31.

⁷ "Ceruleo" in some parts of the record.

⁸ *Id.* at 31.

⁹ See *id.* at 11.

¹⁰ *Id.* at 134-137.

¹¹ *Id.* at 31.

¹² *Id.* at 33.

¹³ *Id.* at 138-139. Referred to as "Supplemental Contract dated December 12, 1989" in some parts of the records.

¹⁴ *Id.* at 31.

¹⁵ *Id.* at 129-133.

¹⁶ *Id.* at 31-33.

For their part, Ceruleo, Celedonio, and Maude maintained that Santiago had no legal right to file an action for judicial partition nor compel them to surrender TCT No. T-12255 because, *inter alia*: (a) Santiago did not pay the full purchase price of the shares sold to him; and (b) the subject land is a conjugal asset of Conrado Sr. and Eusela Niangar and, thus, only their legitimate issues may validly inherit the same.¹⁷

The RTC Ruling

In a Decision¹⁸ dated November 29, 2002, the RTC ordered, among others, the partition of the subject land between Santiago on the one hand, and Ceruleo, Celedonio, Maude, and the heirs of Mateo, Sr. (*i.e.*, Felcon, *et al.*) on the other hand and, consequently, the cancellation of TCT No. T-12255 and the issuance of a new owner's duplicate certificate in favor of Santiago and the group of Ceruleo, Celedonio, Maude, and the heirs of Mateo, Sr.¹⁹ The RTC found that through the subject document, Santiago became a co-owner of the subject land and, as such, has the right to demand the partition of the same. However, the RTC held that Santiago did not validly acquire Mateo, Sr.'s share over the subject land, considering that Felcon admitted the lack of authority to bind his siblings with regard to Mateo, Sr.'s share thereon.²⁰

On reconsideration²¹ of Ceruleo and herein respondents Celedonio, Maude, Celestial, Coronacion, and Cecilia (respondents), the RTC issued an Order²² dated April 4, 2003 further ordering Santiago to comply with the provisions of the Supplemental Contract dated December 22, 1989 by paying the amount of ₱337,887.73 upon the partition of the subject land.

Dissatisfied, respondents appealed²³ to the CA. Records are bereft of any showing that the other heirs made similar appeals thereto.

The CA Ruling

In a Decision²⁴ dated March 26, 2009, the CA set aside the RTC Rulings and, consequently, dismissed Santiago's complaint for judicial partition.²⁵ It held that Felcon's siblings, as well as Maude's children, are indispensable parties to the judicial partition of the subject land and, thus,

¹⁷ Id. at 33-34.

¹⁸ Id. at 167-182.

¹⁹ Id. at 181-182.

²⁰ See id. at 180-181.

²¹ See Motion for Reconsideration dated December 30, 2002 filed by Ceruleo, Celedonio, and Maude; id. at 183-185. See also Motion to Declare Nullity of Judgment and/or Motion for Reconsideration dated December 30, 2002 filed by Coronacion, Celestial, and Cecilia; id. at 186-189.

²² Id. at 242-243.

²³ See Notice of Appeal dated April 15, 2003; id. at 204-205.

²⁴ Id. at 27-45.

²⁵ Id. at 45.

their non-inclusion as defendants in Santiago's complaint would necessarily result in its dismissal.²⁶

Aggrieved, the heirs of Santiago²⁷ moved for reconsideration²⁸ which was, however, denied in a Resolution²⁹ dated April 6, 2011, hence, this petition instituted by herein petitioner, Ma. Elena R. Divinagracia, as administratrix of Santiago's estate.

The Issues Before the Court

The issues for the Court's resolution are whether or not the CA correctly: (a) ruled that Felcon's siblings and Cebeleo, Sr. and Maude's children are indispensable parties to Santiago's complaint for judicial partition; and (b) dismissed Santiago's complaint for his failure to implead said omitted heirs.

The Court's Ruling

The petition is partly meritorious.

An indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties' that his legal presence as a party to the proceeding is an absolute necessity. In his absence, there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable.³⁰ Thus, 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 as to those present.³¹

With regard to actions for partition, Section 1, Rule 69 of the Rules of Court requires that all persons interested in the property shall be joined as defendants, *viz.*:

SEC. 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

²⁶ See *id.* at 40-44.

²⁷ In view of the death of Santiago on April 14, 2004, he was substituted by his widow, Ma. Elena R. Divinagracia, and children, namely: Elsa, Ruth Mari, Liane Grace, Ricardo, and Ma. Fe Emily, all surnamed Divinagracia, per Notice of Death and Substitution of Parties filed before the CA on April 28, 2004. See *id.* at 27.

²⁸ See Motion for Reconsideration dated May 4, 2009; *id.* at 266-273.

²⁹ *Id.* at 47-48.

³⁰ *Gabatin v. Land Bank of the Philippines*, 486 Phil. 366, 379-380 (2004), citing *Bank of the Philippine Islands v. CA*, 450 Phil. 532, 541 (2003); further citation omitted.

³¹ *Domingo v. Scheer*, 466 Phil. 235, 265 (2004).

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**. (Emphasis and underscoring supplied)

Thus, 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 the said parties.³²

In the instant case, records reveal that Conrado, Sr. has the following heirs, legitimate and illegitimate, who are entitled to a *pro-indiviso* share in the subject land, namely: Conrado, Jr., Cresencio, Mateo, Sr., Coronacion, Cecilia, Celestial, Celedonio, Ceruleo, Cebeleo, Sr., Eduardo, Rogelio, and Ricardo. However, both Mateo, Sr. and Cebeleo, Sr. pre-deceased Conrado, Sr. and, thus, pursuant to the rules on representation under the Civil Code,³³ their respective interests shall be represented by their children, namely: (a) for Mateo, Sr.: Felcon, Landelin, Eusela, Giovanni, Mateo, Jr., Tito, and Gaylord; and (b) for Cebeleo, Sr.: Cebeleo, Jr. and Neobel.³⁴

The aforementioned heirs – whether in their own capacity or in representation of their direct ascendant – have vested rights over the subject land and, as such, should be impleaded as indispensable parties in an action for partition thereof. However, a reading of Santiago’s complaint shows that as regards Mateo, Sr.’s interest, only Felcon was impleaded, excluding therefrom his siblings and co-representatives. Similarly, with regard to Cebeleo, Sr.’s interest over the subject land, the complaint impleaded his wife, Maude, when pursuant to Article 972³⁵ of the Civil Code, the proper representatives to his interest should have been his children, Cebeleo, Jr. and Neobel. Verily, Santiago’s omission of the aforesaid heirs renders his complaint for partition defective.

Santiago’s contention that he had already bought the interests of the majority of the heirs and, thus, they should no longer be regarded as indispensable parties deserves no merit. As correctly noted by the CA, in actions for partition, the court cannot properly issue an order to divide the property, unless it first makes a determination as to the existence of co-ownership. The court must initially settle the issue of ownership, which is

³² *Sepulveda, Sr. v. Atty. Pelaez*, 490 Phil. 710, 721 (2005).

³³ See Civil Code, Articles 970 to 977.

³⁴ See *Rollo*, pp. 10-11 and 31-33.

³⁵ Article 972 of the Civil Code reads:

Art. 972. The right of representation takes place in the direct descending line, but never in the ascending.

In the collateral line, it takes place only in favor of the children of brothers or sisters, whether they be of the full or half blood.

the first stage in an action for partition.³⁶ Indubitably, therefore, until and unless this issue of co-ownership is definitely and finally resolved, it would be premature to effect a partition of the disputed properties.³⁷

In this case, while it is conceded that Santiago bought the interests of majority of the heirs of Conrado, Sr. as evidenced by the subject document, as a vendee, he merely steps into the shoes of the vendors-heirs. Since his interest over the subject land is merely derived from that of the vendors-heirs, the latter should first be determined as co-owners thereof, thus necessitating the joinder of all those who have vested interests in such land, *i.e.*, the aforesaid heirs of Conrado, Sr., in Santiago's complaint.

In fine, the absence of the aforementioned indispensable parties in the instant complaint for judicial partition renders all subsequent actions of the RTC null and void for want of authority to act, not only as to the absent parties, but even as to those present.³⁸ Therefore, the CA correctly set aside the November 29, 2002 Decision and the April 4, 2003 Order of the RTC.

However, the CA erred in ordering the dismissal of the complaint on account of Santiago's failure to implead all the indispensable parties in his complaint. In *Heirs of Mesina v. Heirs of Fian, Sr.*,³⁹ the Court definitively explained that in instances of non-joinder of indispensable parties, the proper remedy is to implead them and not to dismiss the case, to wit:

The non-joinder of indispensable parties is not a ground for the dismissal of an action. At any stage of a judicial proceeding and/or at such times as are just, parties may be added on the motion of a party or on the initiative of the tribunal concerned. If the plaintiff refuses to implead an indispensable party despite the order of the court, that court may dismiss the complaint for the plaintiff's failure to comply with the order. **The remedy is to implead the non-party claimed to be indispensable.** x x x⁴⁰ (Underscoring supplied; emphases in the original)

In view of the foregoing, the correct course of action in the instant case 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.⁴¹

³⁶ See *Samson v. Spouses Gabor*, G.R. No. 182970, July 23, 2014, citing *Reyes-de Leon v. Del Rosario*, 479 Phil. 98, 107 (2004).

³⁷ *Lachayan v. Samoy, Jr.*, G.R. No. 165427, March 21, 2011, 645 SCRA 677, 688-689.

³⁸ *Quilatan v. Heirs of Quilatan Lorenzo*, 614 Phil. 162, 168 (2009).


³⁹ G.R. No. 201816, April 8, 2013, 695 SCRA 345.

⁴⁰ *Id.* at 353, citing *Pamplona Plantation Co., Inc. v. Tinghil*, 491 Phil. 15, 29 (2005).


⁴¹ In *Quilatan v. Heirs of Quilatan* (supra note 37), the Court similarly ordered the remand of the partition case therein to the RTC for the failure of petitioners therein to implead all the indispensable parties in their complaint for partition.

WHEREFORE, the petition is **PARTLY GRANTED**. Accordingly, the Decision dated March 26, 2009 and the Resolution dated April 6, 2011 of the Court of Appeals in CA-G.R. CV. No. 80167, setting aside the Decision dated November 29, 2002 and the Order dated April 4, 2003 of the Regional Trial Court of Iloilo City, Branch 31 in Civil Case No. 19003, are hereby **AFFIRMED** with **MODIFICATION REMANDING** the instant case to the court *a quo*, which is hereby **DIRECTED** to implead all indispensable parties and, thereafter, **PROCEED** with the resolution of the case on the merits **WITH DISPATCH**.

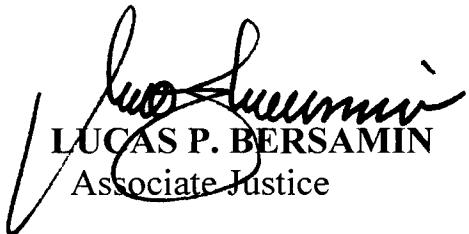
SO ORDERED.

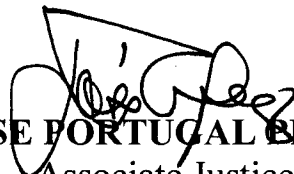

ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson

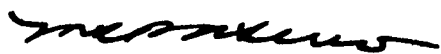

TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


JOSE PORTUGAL BEREZ
 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 case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice