



Republic of the Philippines
Supreme Court
Manila

REPUBLIC OF THE PHILIPPINES
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SECOND DIVISION

MA. ROSARIO AGARRADO,
RUTH LIBRADA AGARRADO AND
ROY AGARRADO, for themselves
and for the benefit of their siblings
and co-owners *ROBERTO*
AGARRADO, REUEL ANDRES
AGARRADO, HEIRS OF THE LATE
RODRIGO AGARRADO, JR., REX
AGARRADO and JUDY AGARRADO,
Petitioners,

G.R. No. 212413

Present:

CARPIO, J.
Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

- versus -

CRISTITA LIBRANDO-
AGARRADO AND ANA LOU
AGARRADO-KING,
Respondents.

Promulgated:

06 JUN 2018

X-----X

DECISION

REYES, JR., J.:

An action for partition of real estate is at once an action for the determination of the co-owners of the subject property and an action for the eventual conveyance of specific portions thereof to the co-owners. While this subject matter is incapable of pecuniary estimation, the proper court which would have jurisdiction over the action would still depend on the subject

Reyes

*property's assessed values in accordance with Secs. 19(2) and 33(3) of The Judiciary Reorganization Act of 1980, as amended.*¹

The Case

Challenged before the Court *via* this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the April 19, 2013 Decision² of the Court of Appeals (CA) in CA-G.R. CV. No. 02669, which affirmed with modification the January 17, 2007 Decision³ of the Regional Trial Court (RTC), Branch 44, of Bacolod City in Civil Case No. 03-11893. Likewise challenged is the subsequent March 27, 2014 Resolution⁴ of the CA which upheld its earlier decision.

The Antecedent Facts

As borne by the records of the case, it appears that the petitioners Ma. Rosario Agarrado (Ma. Rosario), Ruth Librada Agarrado (Ruth), and Roy Agarrado (Roy) are children of the late spouses Rodrigo (Rodrigo) and Emilia (Emilia) Agarrado, who, during their lifetime, acquired a 287-square-meter land (subject property) in Bacolod City, Negros Occidental. The subject property was registered in the name of the spouses Rodrigo and Emilia and was covered by Transfer Certificate of Title No. T-29842-B.⁵

On August 18, 1978, Emilia died intestate, leaving Rodrigo and their children as her compulsory heirs.

Meanwhile, unknown to the petitioners, Rodrigo was involved in an illicit affair with respondent Cristita Librando-Agarrado (Cristita), with whom Rodrigo begot respondent Ana Lou Agarrado-King (Ana Lou). As it turned out, Ana Lou was conceived during the existence of the marriage between Rodrigo and Emilia, but was born on September 27, 1978—one month after the dissolution of Rodrigo and Emilia's marriage through the latter's death.

Eventually, Rodrigo married Cristita on July 6, 1981.

¹ B.P. 129 (1980), as amended by R.A. No. 7691 (1994).

² Penned by then Associate, now Executive Justice Gabriel T. Ingles, and concurred in by Associate Justices Pampio A. Abarintos and Marilyn B. Lagura-Yap; *rollo*, pp. 73-84.

³ Rendered by Presiding Judge Rodney A. Bolunia; *id.* at 114-122.

⁴ Penned by Associate, now Executive Justice Gabriel T. Ingles, and concurred in by Associate Justices Pamela Ann Abella Maximo and Marilyn B. Lagura Yap; *id.* at 86-87.

⁵ *Id.* at 74.

Meyer

On December 8, 2000, Rodrigo also succumbed to mortality and died. He left his surviving spouse, Cristita, his legitimate children by his marriage with Emilia, and Ana Lou.

On January 23, 2003, Cristita and Ana Lou filed a complaint before the Regional Trial Court (RTC), Branch 44, of Bacolod City for the partition of the subject property, with Ma. Rosario, Ruth, Roy, “and other heirs of Rodrigo Agarrado”⁶ as defendants. None of the other heirs were however named in any pleading filed by either the plaintiffs (now respondents) or defendants (now petitioners).

Eventually, the RTC rendered its January 17, 2007 Decision, which ordered the parties to partition the subject property “among themselves by proper instruments of conveyance or any other means or method.”⁷ The *fallo* of the decision reads:

WHEREFORE, plaintiff Ana Lou Agarrado-King and the defendants herein are ordered to partition the property subject of this case (Lot 10, Block 6) among themselves by proper instruments of conveyance or any other means or method after which the Court shall confirm the partition so agreed upon by them, otherwise the Court will appoint commissioners to effect partition at the expense of the parties.

SO ORDERED.⁸

Aggrieved, the petitioners elevated the case to the Court of Appeals, which, through the assailed April 19, 2013 Decision, affirmed with modification the January 17, 2007 Decision of the RTC. The *fallo* of the decision of the appellate court reads:

WHEREFORE, the appeal is **DISMISSED**. The Decision dated January 17, 2007, of the Regional Trial Court, 6th Judicial Region, Branch 44, Bacolod City in Civil Case No. 03-11893 is **AFFIRMED with MODIFICATION** in that:

1. We declare plaintiffs-appellees Cristita Librando Agarrado and Ana Lou Agarrado-King as well as defendants-appellants as co-owners of the subject property;
2. We grant judicial partition in the following manner:
 - (a) Plaintiff-appellee Cristita Librando Agarrado is entitled to 2/9;
 - (b) Ma. Rosario, Ruth and Roy Agarrado are entitled to 6/9 plus ¼ to be divided equally among them unless they agree otherwise; and
 - (c) Ana Lou Agarrado-King is entitled to 1/9 of the property.

⁶ Id. at 88.

⁷ Id. at 122.

⁸ Id.

Meyer

The partition and segregation of the subject property is hereby ordered as outlined in Rule 69 of the Revised Rules of Court, as amended.

No pronouncements as to costs.

SO ORDERED.⁹

Despite the petitioners' motion for reconsideration, the CA affirmed its April 19, 2013 Decision *via* the March 27, 2014 Resolution.

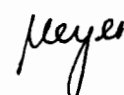
Hence, this petition.

The Issues

The petitioners anchor their prayer for the reversal of the April 19, 2013 Decision and March 27, 2014 Resolution based on the following issues:

- a. Whether the Hon. Court of Appeals erred in excluding the FIVE OTHER heirs (children of the first marriage) of their inheritance by the alleged failure to prove their filiation in the proceedings before the Honorable Regional Trial Court;
- b. Harmonizing substantive and procedural law, whether the Honorable Court of Appeals erred in not appreciating Respondents' implied recognition or "admission by silence" under Section 32 of Rule 130 of the Rules of Court as evidence of the filiation of the five (5) other children of the late Rodrigo Agarrado, Sr. (namely Reuel Andres Agarrado, Rodrigo Agarrado, Jr., Rex Agarrado, Roberto Agarrado and Judy Agarrado);
- c. Whether the Hon. Court of Appeals in its contested Decision, mathematically MISAPPLIED the formula under the pertinent rules of succession in the Family Code and/or Civil Code to determine the shares of both Petitioners and Respondents to the subject house and lot;
- d. Relatedly, whether the Hon. Court of Appeals is correct in ruling that a family home cannot be recognized as such simply because it was not registered as such;
- e. Whether all the GSIS, PHILHEALTH and other benefits all claimed, taken, and received by the Respondents are to be charged against

⁹ Id. at 83-84.



whatever share they may have over the subject "house and lot" of the late Rodrigo Agarrado, Sr., as well as the funeral expenses expended by the first family alone?

- f. Whether the Hon. Court of Appeals was correct in not ordering the dismissal of the case for failure of Plaintiffs-Respondents to allege the market value and pay the right docket fees at the incipience of the Complaint.¹⁰

In sum, the submissions of the petitioners seek to determine the following: (1) the compulsory heirs of the late Rodrigo; (2) the portion of the estate to which each of the compulsory heirs are entitled; (3) the propriety of collating to the total estate the medical and burial expenses shouldered by the petitioners and the benefits (GSIS, PHILHEALTH) received by the respondents; (4) the effect of the allegation that the subject property is the petitioners' family home; and (5) the effect on jurisdiction of the failure to indicate the market value of the subject property in the complaint filed before the RTC.

The Court's Ruling

After a careful perusal of the arguments presented and the evidence submitted, the Court finds merit in the petition.

For obvious reasons, the Court shall first consider the issue on jurisdiction.

The petitioners argue that the complaint must be dismissed for the failure of the respondents to allege the assessed value of the subject property. They said that the appellate court failed to appreciate this jurisdictional requirement, which was indispensable in the determination of the jurisdiction of the RTC. They further averred that the case should not have proceeded in the first place.¹¹

The CA glossed over this issue by saying that the action for partition instituted by the respondents in the RTC is one incapable of pecuniary estimation, which would thus confer jurisdiction over the case to the RTC. In ruling thus, the appellate court invoked the guidance of the case of *Russel vs. Vestil*,¹² and stated that:

¹⁰ Id. at 20-22.

¹¹ Id. at 45-47.

¹² 364 Phil. 392 (1999).

Meyer

We are guided by the ruling in *Russel vs Vestil*, 304 SCRA 739, March 17, 1999 wherein **the Supreme Court considered petitioners' complaint seeking the annulment of the document entitled "Declaration of Heirs and Deed of Confirmation of Previous Oral Partition," as an action incapable of pecuniary estimation,** rationalizing that the resolution of the same principally involved the determination of hereditary rights. In effect, the partition aspect is an action incapable of pecuniary estimation. (Emphasis and underscoring supplied)¹³

This, however, is an error that must be reversed. The appellate court's reliance on *Russel* is misplaced.

The Court, in *Russel*, explained that the complaint filed by the plaintiff is one incapable of pecuniary estimation because the subject matter of the complaint is **not one of partition, but one of the annulment of a document** denominated as a "Declaration of Heirs and Deed of Confirmation of Previous Oral Partition." Considering that the annulment of a document is the main subject matter, and that the same is incapable of pecuniary estimation, then necessarily, the RTC has jurisdiction.

This is not so in the present case.

In determining whether a case is incapable of pecuniary estimation, the case of *Cabrera vs. Francisco*,¹⁴ in reiterating the case of *Singson vs. Isabela Sawmill*,¹⁵ teaches that identifying the nature of the principal action or remedy sought is primarily necessary. It states:

In determining whether an action is one the subject matter of which is not capable of pecuniary estimation **this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought.** If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the Courts of First Instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by Courts of First Instance (now Regional Trial Courts).¹⁶ (Emphasis and underscoring supplied)

¹³ *Rollo*, p. 77.

¹⁴ 716 Phil. 574 (2013).

¹⁵ 177 Phil. 575 (1979).

¹⁶ *Supra* note 14, at 586-587.

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For actions on partition, the subject matter is two-phased. In *Bagayas vs. Bagayas*,¹⁷ the Court ruled that partition is at once an action (1) for declaration of co-ownership and (2) for segregation and conveyance of a determinate portion of the properties involved. Thus, in a complaint for partition, the plaintiff seeks, first, a declaration that he/she is a co-owner of the subject properties, and second, the conveyance of his/her lawful share.¹⁸

The case of *Russel*, the very same case cited by the Court of Appeals, determined that while actions for partition are incapable of pecuniary estimation owing to its two-phased subject matter, **the determination of the court which will acquire jurisdiction over the same must still conform to Sec. 33(3) of B.P. 129, as amended.** *Russel* said:

While actions under Sec. 33(3) of B.P. 129 are also incapable of pecuniary estimation, the law specifically mandates that they are cognizable by the MTC, METC, or MCTC where the assessed value of the real property involved does exceed P20,000.00 in Metro Manila, or P50,000.00, if located elsewhere. **If the value exceeds P20,000.00 or P50,000.00 as the case may be, it is the Regional Trial Courts which have jurisdiction under Sec. 19(2).** (Emphasis and underscoring supplied)

This is also the tenor of the case of *Barrido vs. Nonato*¹⁹ where the Court upheld the jurisdiction of the Municipal Trial Court in Cities (MTCC), Branch 3, of Bacolod City over the action for partition because the assessed value of the subject property was only ₱8,080.00. As basis, *Barrido* likewise cited Sec. 33(3) of B.P. 129, as amended.

To be sure, according to the recent case of *Foronda-Crystal vs. Son*,²⁰ jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. To exercise this, the court or adjudicative body must acquire, among others, jurisdiction over the subject matter,²¹ **which is conferred by law** and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists.²²

Jurisdiction over cases for partition of real properties therefore, like all others, is determined by law. Particularly, the same is identified by

¹⁷ 718 Phil. 91, 98 (2013).

¹⁸ Id.

¹⁹ G.R. No. 176492, October 20, 2014, 738 SCRA 510, 515-516.

²⁰ *Glynnna Foronda-Crystal v. Aniana Lawas Son*, G.R. No. 221815, November 29, 2017.

²¹ *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, 760 Phil. 954, 960 (2015) citing *Spouses Genato v. Viola*, 625 Phil. 514, 527 (2010).

²² Id., See *Philippine Coconut Producers Federation, Inc. v. Republic of the Phils.*, 679 Phil. 508, 568 (2012), citing *Allied Domecq Philippines, Inc. v. Villon*, 482 Phil. 894, 900 (2004).

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Sections 19(2) and 33(3) of the Judiciary Reorganization Act of 1980, as amended by Republic Act 7691.²³

The provisions state that in all civil actions which involve title to, or possession of, real property, or any interest therein, the RTC shall exercise exclusive original jurisdiction where the assessed value of the property exceeds ₱20,000.00 or, for civil actions in Metro Manila, where such value exceeds ₱50,000.00.²⁴ For those below the foregoing threshold amounts, exclusive jurisdiction lies with the Metropolitan Trial Courts (MeTC), Municipal Trial Courts (MTC), or Municipal Circuit Trial Courts (MCTC).²⁵

Thus, the determination of the assessed value of the property, which is the subject matter of the partition, is essential. This, the courts could identify through an examination of the allegations of the complaint.

According to the case of *Tumpag vs. Tumpag*,²⁶ it is a hornbook doctrine that the court should only look into the facts alleged in the complaint to determine whether a suit is within its jurisdiction.²⁷ According to the case of *Spouses Cruz vs. Spouses Cruz, et al.*,²⁸ only these facts can be the basis of the court's competence to take cognizance of a case, and that one cannot advert to anything not set forth in the complaint, such as evidence adduced at the trial, to determine the nature of the action thereby initiated.²⁹

According to *Foronda-Crystal*, failure to allege the assessed value of a real property in the complaint would result to a dismissal of the case. The reason put forth by the Court is that:

x x x absent any allegation in the complaint of the assessed value of the property, **it cannot be determined whether the RTC or the MTC has original and exclusive jurisdiction over the petitioner's action.** Indeed, the courts cannot take judicial notice of the assessed or market value of the land. (Emphasis and underscoring supplied, citations omitted)

This same *ratio* has been repeated in a number of cases, including the cases of *Spouses Cruz vs. Spouses Cruz, et al.*³⁰ and *Quinagoran vs. Court of Appeals*,³¹ where the Court concluded that:

²³ Batas Pambansa Blg. 129 (1980), as amended by Rep. Act No. 7691 (1994).

²⁴ Id. Sec. 19(2).

²⁵ Id. Sec. 33(3).

²⁶ G.R. No. 199133, September 29, 2014, 737 SCRA 62, 69.

²⁷ *Tumpag v. Tumpag*, G.R. No. 199133, September 29, 2014, 737 SCRA 62, 69.

²⁸ 616 Phil. 519 (2009).

²⁹ Id. at 523-524.

³⁰ Supra note 28.

³¹ 557 Phil. 650 (2007).

Mejia

Considering that the respondents failed to allege in their complaint the assessed value of the subject property, the RTC seriously erred in denying the motion to dismiss. Consequently, all proceedings in the RTC are null and void, and the CA erred in affirming the RTC.³²

Based on the foregoing, in *Foronda-Crystal*, the Court already established the rules that have to be followed in determining the jurisdiction of the first and second level courts. It said:

A reading of the quoted cases would reveal a pattern which would invariably guide both the bench and the bar in similar situations. Based on the foregoing, **the rule on determining the assessed value of a real property, insofar as the identification of the jurisdiction of the first and second level courts is concerned, would be two-tiered:**

First, the general rule is that jurisdiction is determined by the assessed value of the real property as alleged in the complaint; and

Second, the rule would be liberally applied if the assessed value of the property, while not alleged in the complaint, could still be identified through a facial examination of the documents already attached to the complaint. (Emphasis and underscoring supplied)

On the basis of this most recent ruling, the Court is without any recourse but to agree with the petitioners in dismissing the complaint filed before the RTC for lack of jurisdiction.

A scouring of the records of this case revealed that the complaint did indeed lack any indication as to the assessed value of the subject property. In fact, the only reference to the same in the complaint are found in paragraphs six, seven, and eight thereof, which state that:

“6. Meanwhile, during the lifetime of Rodrigo Agarrado, he acquired certain real and personal properties due to his hard work, one of which is the parcel of land with improvements standing thereon, located at Barangay Villamonte, Bacolod City, more particularly described as follows, to wit:

x x x x

7. RODRIGO AGARRADO died intestate and leaving no debts. Upon his death, plaintiffs by operation of law, became co-owners of the afore-described property jointly with the other heirs, the herein defendants;

8. Demand thru counsel has been made by the herein plaintiffs upon the defendants for the partition of the subject property, but the same

³² Id. at 661.

Meyer

was simply ignored. Copy of the Demand Letter is hereto attached and marked as Annex 'D' and forming part hereof.”³³

None of these assertions indicate the assessed value of the property to be partitioned that would invariably determine as to which court has the authority to acquire jurisdiction. More, none of the documents annexed to the complaint and as attached in the records of this case indicates any such amount. Thus, the petitioners are correct in restating their argument against the RTC's jurisdiction, for it has none to exercise.

Clearly, therefore, jurisprudence has ruled that an action for partition, while one not capable of pecuniary estimation, falls under the jurisdiction of either the first or second level courts depending on the amounts specified in Secs. 19(2) and 33(3) of B.P. 129, as amended. Consequently, a failure by the plaintiff to indicate the assessed value of the subject property in his/her complaint, or at the very least, in the attachments in the complaint as ruled in *Foronda-Crystal*, is dismissible because the court which would exercise jurisdiction over the same could not be identified.

Consequently, as the complaint in this case is dismissible for its failure to abide by the rules in *Foronda-Crystal*, then the Court sees no further necessity to discuss the other issues raised.

WHEREFORE, premises considered, the April 19, 2013 Decision and March 27, 2014 Resolution of the Court of Appeals in CA-G.R. CV. No. 02669, as well as the January 17, 2007 Decision of the Regional Trial Court, Branch 44, of Bacolod City in Civil Case No. 03-11893 are hereby **SET ASIDE**. The complaint is hereby **DISMISSED** without prejudice to its refiling in the proper court.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:



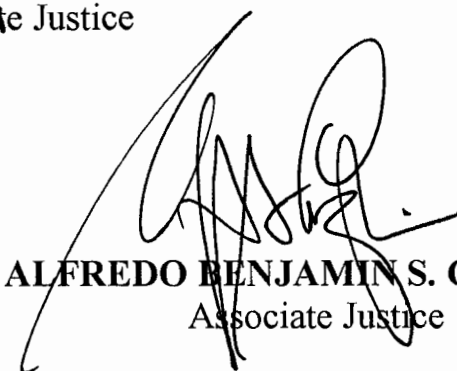
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296 The
Judiciary Act of 1948, as amended)