



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RAYMOND ANG,
Petitioner,

G.R. No. 234631

Present:

-versus-

LEONEN, *J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

CORAZON ANG SY and BELEN
ANG CASIMIRO,
Respondents.

Promulgated:
DEC 04 2023

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DECISION

LEONEN, *J.*:

When a party dies and no heir is willing to substitute them in the case, the appeal can be denied without passing upon the substantive issues of the case, as any disposition on the merits ceases to have any practical value.

This case resolves a Petition for Review assailing the Court of Appeals Decision¹ and Resolution,² which reversed and set aside the Decision³ of the Regional Trial Court of Pasig City. The trial court denied the Petition for Writ of Mandatory Injunction with Damages filed by

¹ *Rollo*, pp. 68–76. The April 3, 2017 Decision was penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Ramon A. Cruz and Henri Jean Paul B. Inting (now a Member of this Court) of the Special Sixteenth Division of the Court of Appeals, Manila.

² *Id.* at 78–82. The September 27, 2017 Resolution was penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Ramon A. Cruz and Henri Jean Paul B. Inting (now a Member of this Court) of the former Special Sixteenth Division of the Court of Appeals, Manila.

³ *Id.* at 83–86

Corazon Ang Sy and Belen Ang Casimiro (Corazon and Belen), children of spouses Vicente and Anita Ang (Vicente and Anita).⁴

Since their deaths in 1964 and 1979, Vicente and Anita have been buried at the Chinese Cemetery in Manila, as decided by Anita.⁵ The cemetery is owned and operated by the Philippine Chinese Charitable Association, Inc.⁶

In 2005, Corazon and Belen wanted to have Vicente's and Anita's remains exhumed, cremated, and interred at Santuario de San Antonio in Makati City.⁷ This was because the Chinese Cemetery was too far from their homes, making it difficult for them to travel due to their advanced age.⁸ Corazon and Belen also wanted to transfer their parents' remains because of the presence of informal settlers at the Chinese Cemetery and due to incidents of theft and vandalism.⁹

The exhumation was already scheduled on October 12, 2005, but on that day, the Philippine Chinese Charitable Association, Inc. prevented it because of objections from other family members, namely Caesar Ang, Jr. (Caesar, Jr.), Ernesto Ang (Ernesto), and Raymond Ang (Raymond).¹⁰ Raymond is the grandson of the deceased spouses, while Ernesto and Caesar, Jr. are Vicente's son and grandson, respectively, outside of his marriage to Anita. They claimed that as the male descendants, their consent was necessary before the exhumation could proceed, in line with Chinese custom and tradition. They also reiterated Anita's wish that she be buried at the Chinese Cemetery with her husband.¹¹

Because of this, Corazon and Belen filed a Petition for Writ of Mandatory Injunction with Damages in 2008 seeking to compel the transfer of their parents' remains. They used Article 308 of the New Civil Code as the basis of their claim, which states that "[n]o human remains shall be retained, interred, disposed of or exhumed without the consent of the persons in Articles 294 and 305."¹²

After trial, the Regional Trial Court of Pasig City denied the Petition for lack of merit. It ruled that it is not Article 308 that is applicable in this case but Article 307, which states that "[t]he funeral shall be in accordance with the expressed wishes of the deceased." As to the case of *Valino v.*

⁴ *Id.* at 86.

⁵ *Id.* at 69.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 69-70.

¹² *Id.* at 85.

Adriano,¹³ which Corazon and Belen cited, the trial court said that in case of ambiguity as to the burial wish of the deceased, it is the law that supplies the presumption as to the deceased's intent; but in the case of Vicente and Anita, the deceased's wishes should be respected.¹⁴ The Decision's dispositive portion reads:

WHEREFORE, the instant petition is DENIED for lack of merit.

Respondents' counterclaims are likewise DISMISSED for lack of merit.

Cost against petitioners.

SO ORDERED.¹⁵

Corazon and Belen appealed the Regional Trial Court Decision before the Court of Appeals. Finding the appeal meritorious, the appellate court reversed and set aside the Regional Trial Court's Decision.¹⁶ The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, premises considered, the instant appeal is **PARTIALLY GRANTED**.

The assailed 05 June 2015 Decision and 28 March 2016 Order are SET ASIDE.

Respondent-Appellee Philippine Chinese Charitable Association is ORDERED to immediately cause the proper exhumation and cremation of the remains of Vicente Ang and Anita Ang, preparatory to transfer to a location of Petitioners-Appellants Corazon Ang Sy and Belen Ang Casimiro's choice, which is at Santuario de San Antonio in Makati City.

The claim for damages is DISMISSED for lack of merit;

SO ORDERED.¹⁷

Both parties moved for reconsideration, but both Motions were denied by the Court of Appeals in its Resolution:

WHEREFORE, premises considered, the Motion for Reconsideration filed by respondents-appellees Caesar Ang, Jr., Heirs of Ernesto Ang, and Raymond Ang, *and* the Motion for Partial Reconsideration filed by petitioners-appellants Corazon Ang Sy and Belen Ang Casimiro are **DENIED**.

SO ORDERED.¹⁸

¹³ 733 Phil. 616 (2014) [Per J. Mendoza, *En Banc*].

¹⁴ *Rollo*, p. 70.

¹⁵ *Id.* at 86.

¹⁶ *Id.* at 75.

¹⁷ *Id.*

Hence, Raymond filed a Petition for Review.¹⁹ Caesar, Jr. and Ernesto died during the proceedings in the lower courts.²⁰

Petitioner Raymond assails the Court of Appeals Decision and Resolution mainly on the ground that respondents Corazon and Belen were not able to establish their right to exhume, cremate, and transfer Vicente's and Anita's remains.²¹ He anchors his argument on the express wish of Anita to be buried at the Chinese Cemetery, which he says should be respected pursuant to Article 307 of the New Civil Code.²²

As to the applicability of *Valino*, petitioner argues that *Valino* only applied the order of precedence in Article 305 "because of the ambiguity as to the burial wish of [the] decedent,"²³ unlike in this case where Anita's wish to be buried at the Chinese Cemetery is clear and admitted by all parties.²⁴

Petitioner also maintains that the Court of Appeals erred in applying Article 308, claiming that this should be interpreted in connection with Article 307, which applies if the deceased's wish is established.²⁵ Alternatively, petitioner argues that even if Article 308 applies, this provision still does not give respondents Corazon and Belen "a clear legal right to authorize the exhumation of the remains of their deceased parents," because the same provision requires the consent of the descendants of the deceased. Raymond and his co-parties Caesar, Jr. and Ernesto, are also descendants of Vicente, thus, making their consent also indispensable.²⁶

Further, petitioner also states that exhuming, cremating, and transferring the deceased's remains would be "highly offensive to Chinese customs and family traditions," notably because the consent of petitioner, Caesar, Jr., and Ernesto were not obtained. He claims that this was "in complete disregard of Chinese custom and tradition which prescribes that the male heirs should have first been consulted and their subsequent consent be given before any exhumation can be done."²⁷ He also insists that he has proprietary rights over the burial lots as a descendant of the registered owner of the lot, Ang Ban Hing.²⁸ He was also the one who paid for the maintenance of the graves.²⁹

¹⁸ *Id.* at 81.

¹⁹ *Id.* at 33-66.

²⁰ *Id.* at 69.

²¹ *Id.* at 48.

²² *Id.* at 50.

²³ *Id.* at 51.

²⁴ *Id.* at 51-52.

²⁵ *Id.* at 52.

²⁶ *Id.* at 53.

²⁷ *Id.* at 56-57.

²⁸ *Id.* at 57.

²⁹ *Id.* at 58.

Moreover, petitioner argues that respondents are barred by laches, because Vicente and Anita have already been buried in the lot as early as 1964 and 1979, respectively.³⁰ Finally, he argues that the Petition for Mandatory Injunction was prematurely filed because respondents have not shown that they have complied with the Philippine Chinese Charitable Association, Inc.'s requirements for exhumation.³¹

For their part, respondents Corazon and Belen maintain that Articles 305 and 308 of the New Civil Code are the applicable provisions, and not Article 307.³² According to them, Article 307 only covers the funeral rites or the form of funeral for the deceased, and not acts that take place before or after such ceremonies.³³ They cite this Court's ruling in *Valino*, saying that "Article 307 is applied with respect to the form of the funeral rites and not the manner or place of the burial of the deceased."³⁴

They say that it is the persons mentioned in Article 308 who have the "quasi-property right" over the remains of the deceased, as they are the ones given the "right over the following acts which could take place either prior to or after a funeral, namely: retaining, interring, disposing of, or exhuming."³⁵

Rejecting petitioner's claim, respondents argue that *Valino* applies even if there is no ambiguity in the decedent's wishes. They quote a portion of the decision saying that even if the deceased's wishes were determined, the results would be the same, and that in any case, these wishes are not absolute "if they are contrary to law."³⁶ Thus, they assert that *Valino* clearly supports their position.³⁷

Further, respondents insist that even if the deceased's wishes were established, these were not conveyed in the manner required by law, which is through "some form of testamentary disposition to be considered expressly conveyed, as the wishes of the deceased cannot be lightly inferred."³⁸ In this case, respondents note that neither spouse executed a will expressing that they be interred at the Chinese Cemetery.³⁹

They also reject petitioner's claim that Chinese traditions should be upheld, saying that these cannot defeat an express legal provision.⁴⁰

³⁰ *Id.* at 59.

³¹ *Id.* at 59–60.

³² *Id.* at 1501.

³³ *Id.* at 1503.

³⁴ *Id.* at 1504.

³⁵ *Id.* at 1505.

³⁶ *Id.* at 1506–1507.

³⁷ *Id.* at 1508.

³⁸ *Id.* at 1509.

³⁹ *Id.*

⁴⁰ *Id.* at 1510.

Respondents further claim that this tradition of securing the consent of only the male descendants “cannot be tolerated in our jurisdiction” because it discriminates against women and it violates the Constitution and other legal instruments.⁴¹

Moreover, respondents state that exhumation can be done without damage to the other tombs on the burial lots. Therefore, “petitioner’s fear that the tombs may be desecrated or spoiled if exhumation is granted is unfounded and speculative.”⁴²

Further, respondents maintain that they are not estopped by laches, because their cause of action accrued only after three years—from 2005 when the Philippine Chinese Charitable Association, Inc. prevented the scheduled exhumation due to objections from family members, to 2008 when they filed the Petition for Writ of Mandatory Induction with Damages.⁴³ Finally, respondents claim that they have established their compliance with the Philippine Chinese Charitable Association, Inc.’s requirements.⁴⁴

After respondents’ Comment, this Court required petitioner to file his Reply.⁴⁵

However, before such Reply could be filed, respondents filed a Motion for Dismissal of Appeal,⁴⁶ informing this Court that petitioner has already passed away. Thus, his claims in his Petition have been extinguished by his death, as “the present case involves an action which does not affect property or property rights. In fact, it involves a personal obligation on the part of petitioner [Raymond] to cause the exhumation and cremation of the remains of [respondents’] parents. It is an action which is extinguished by death.”⁴⁷

This Court ordered petitioner to comment on this Motion for Dismissal of Appeal, and petitioner’s counsel to show cause for not filing a Reply.⁴⁸

In the Compliance with Omnibus Motion⁴⁹ filed, petitioner’s counsel confirmed the death of petitioner Raymond, and prayed for time to submit the names and addresses of his legal representatives, as well as the Reply to

⁴¹ *Id.* at 1511.

⁴² *Id.* at 1513–1514.

⁴³ *Id.* at 1516.

⁴⁴ *Id.* at 1519–1520.

⁴⁵ *Id.* at 1537.

⁴⁶ *Id.* at 1538–1543.

⁴⁷ *Id.* at 1539.

⁴⁸ *Id.* at 1544a–1544b.

⁴⁹ *Id.* at 1545–1549.

the Comment.⁵⁰

Subsequently, petitioner's counsel submitted the names and addresses of petitioner's heirs in a Compliance with Manifestation,⁵¹ where it also informed this Court that petitioner's heirs are "not interested in substituting the decedent as a [p]etitioner in the instant case."⁵²

Petitioner's counsel further filed a Supplemental Compliance with Manifestation,⁵³ stating that petitioner had more heirs and that some heirs had changed their addresses.⁵⁴ It submitted the names and new addresses of all the surviving heirs.⁵⁵ It also manifested that "[p]etitioner's heirs have decided not to substitute the decedent as a [p]etitioner in the instant case."⁵⁶

Further, petitioner's counsel filed a Manifestation with Motion,⁵⁷ saying that in view of petitioner's death, petitioner has ceased authority to file the Comment to the Motion for Dismissal of Appeal and the Reply, and that the surviving heirs have decided not to substitute him.⁵⁸

This Court, in its Resolution, noted the Compliance with Manifestation and the Supplemental Compliance with Manifestation.⁵⁹ It also noted without action the Compliance with Omnibus Motion.⁶⁰

Finally, petitioner's counsel filed a Manifestation⁶¹ to "respectfully and formally confirm . . . that [petitioner's heirs] do not wish to substitute the [p]etitioner as a party."⁶² This Manifestation had the written conformity of the heirs.⁶³

This Court, in its Resolution, also noted the Manifestation with Motion and the Manifestation filed by petitioner's counsel.⁶⁴ This Court also dispensed with the filing of petitioner's Comment on the Motion for Dismissal of Appeal.⁶⁵

⁵⁰ *Id.* at 1546–1547.

⁵¹ *Id.* at 1564–1567.

⁵² *Id.* at 1564a.

⁵³ *Id.* at 1553–1557.

⁵⁴ *Id.* at 1553.

⁵⁵ *Id.*

⁵⁶ *Id.* at 1554.

⁵⁷ *Id.* at 1569–1575.

⁵⁸ *Id.* at 1570–1571.

⁵⁹ *Id.* at 1576a–1576b.

⁶⁰ *Id.*

⁶¹ *Id.* at 1578–1581.

⁶² *Id.* at 1578.

⁶³ *Id.* at 1578a.

⁶⁴ *Id.* at 1581–1582.

⁶⁵ *Id.*

In view of these, the filing of the Reply to the Comment is also dispensed with.

The remaining incidents for disposition are:

- (1) the Petition for Review filed by deceased petitioner Raymond Ang assailing the Court of Appeals Decision and Resolution; and
- (2) the Motion for Dismissal of Appeal filed by respondents Corazon Ang Sy and Belen Ang Casimiro in view of petitioner's death.

This Court takes note of these developments that directly affect the disposition of this case—particularly, the death of petitioner and the lack of interest on the part of petitioner's heirs to substitute him as a party to this case.

Rule 3, Section 16 of the Rules of Court, as amended,⁶⁶ provides:

SECTION 16. Death of Party; Duty of Counsel. — Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

In respondents' Motion for Dismissal of Appeal, they claim that petitioner's death extinguishes the action, it being "an action which does not affect property or property rights."⁶⁷

⁶⁶ A.M. No. 19-10-20-SC, or the 2019 Amendments to the 1997 Rules of Civil Procedure, which took effect on May 1, 2020 is applicable in this case, petitioner having died on July 31, 2020.

⁶⁷ *Rollo*, p. 1539.

When asked to comment on the Motion, petitioner's counsel also state that they ceased to have authority to file a Comment to the Motion for Dismissal of Appeal and a Reply to the Comment, the lawyer-client relationship having been extinguished by petitioner's death.⁶⁸ In any case, subsequent submissions also showed that petitioner's heirs do not wish to substitute him as a party in the case.⁶⁹

With petitioner's death and no heir willing to substitute him as a party, any disposition on the merits of this case becomes unnecessary and no longer holds any practical value. Thus, respondents' Motion for Dismissal of Appeal is granted, and the Petition for Review is denied without passing upon the substantive issues raised.

ACCORDINGLY, respondents Corazon Ang Sy and Belen Ang Casimiro's Motion for Dismissal of Appeal is **GRANTED**. The Petition for Review filed by petitioner Raymond Ang is considered **DENIED**. The April 3, 2017 Decision and September 27, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 146181 are therefore **AFFIRMED**.

SO ORDERED.



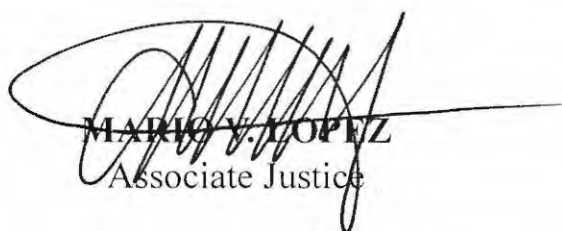
MARVIC M.V.F. LEONEN
Senior Associate Justice


⁶⁸ *Id.* at 1569–1575.

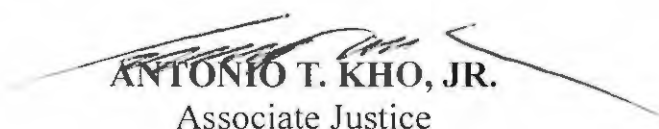
⁶⁹ *Id.* at 1578–1581.

WE CONCUR:


AMY C. LAZARO-JAVIER
Associate Justice


MARIO Y. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
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.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


ALEXANDER G. GESMUNDO
Chief Justice