Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

BERLINDA ORIBELLO,
Petitioner,

- versus -

COURT OF APPEALS (SPECIAL FORMER TENTH DIVISION), and REMEDIOS ORIBELLO,
Respondents.

G.R. No. 163504

Present:

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

Promulgated:

AUG 05 2015

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DECISION

BERSAMIN, *J.*:

The surviving spouse of the deceased registered owner of the property subject of this action for partition appeals the Decision promulgated on July 31, 2003,[1] whereby the Court of Appeals (CA), reviewing the Judgment rendered by the Regional Trial Court (RTC), Branch 31, in Agoo, La Union on March 30, 1998 in Civil Case No. A-1757 entitled *Remedios Oribello, represented by her Atty.-in-Fact Alfredo Selga v. Berlinda P. Oribello*,[2] disposed as follows:

> **WHEREFORE**, the appealed decision is **VACATED** and **SET ASIDE** and the case **REMANDED** to the lower court for the second phase of a partition suit without prejudice to the filing, if still available, of either a petition for relief from the decree of adoption rendered in Sp. Proc. No. R-94 of the then Court of First Instance of Occidental Mindoro (Branch II) or an action for annulment thereof.
>
> **SO ORDERED.**[3]

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1 *Rollo*, pp. 60-66; penned by Associate Justice Edgardo P. Cruz (retired), with Associate Justice Portia Aliño-Hormachuelos (retired) and Associate Justice Noel G. Tijam concurring.
2 CA *rollo*, pp. 40-66.
3 *Rollo*, p. 66.

Antecedents

The assailed Decision of the CA summarized the factual and procedural antecedents of the case, as follows:

> Before the Regional Trial Court of La Union (Branch 31) was an action for partition and damages involving twelve parcels of land xxx situated at Sta. Rita, Agoo, La Union. Eight of said parcels are declared for taxation purposes in the name of Toribio Oribello x x x, two in the names of Toribio and Rosenda Oribello, one in the names of Toribio and and Berlinda Padilla Oribello x x x, and one in the names of Toribio and Ma. Emilia Oribello x x x.
>
> Toribio was twice married. His first wife was Emilia. On September 10, 1981, Toribio's marriage to Emilia was dissolved pursuant to the decision of the Superior Court of California, County of Sacramento, U.S.A.
>
> On March 10, 1982, Toribio married appellee before the municipal mayor of Agoo, La Union. He died intestate on August 18, 1993.
>
> Instituted on May 27, 1997 by Remedios Oribello x x x, represented by her natural father Alfredo Selga x x x, against appellee, the action was anchored on the theory that appellant is an adopted daughter of Toribio per decision dated March 26, 1974 x x x of the then Court of First Instance x x x of Occidental Mindoro (Branch II) in Sp. Proc. No. R-94 x x x granting the petition of Toribio and Emilia, who were childless, for adoption of appellant, then eight years old.
>
> Denying that appellant is an adopted daughter of Toribio, appellee averred in her answer that the decree of adoption was fraudulently secured by Alfredo; that the proceedings in the first adoption case and the decree of adoption are *void ab initio*; that Toribio could not have filed the first adoption case in Occidental Mindoro because he was a resident of Agoo, La Union throughout his life; that the Toribio referred to in the first adoption case and appellee's husband, Toribio, are two different persons; that the birth certificate of appellant was simulated; that appellant never lived with nor submitted herself to the parental authority and care of Toribio even after appellee's marriage to him; that Alfredo's fraudulent scheme was shown by his filing of another petition for adoption in 1983 in the Regional Trial Court of Occidental Mindoro (Branch 45), docketed as Sp. Proc. No. R-274 x x x, which was archived per order of said court dated December 18, 1986.[4]

Judgment of the RTC

On March 30, 1998, the RTC rendered its Judgment after trial, ruling as follows:

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[4] Id. at 60-61.

WHEREFORE, this case is hereby DISMISSED.

Plaintiff Remedios Selga is not a co-owner of the properties enumerated in paragraph 5 of the Complaint, which defendant inherited from Toribio Oribello except those described in subparagraphs 8, 11 and 12 of said paragraph 5. Said three (3) parcels of land are unknown to and not in the possession of defendant (see, Par. 4 of the Answer with Motion to Dismiss).

This Court awards defendant TWENTY-FIVE THOUSAND PESOS (₱25,000.00) in attorney's fees to be paid by plaintiff.

SO ORDERED. [5] (Underscoring supplied)

Decision of the CA

On appeal, respondent Remedios Oribello sought the reversal of the judgment of the RTC, insisting that the trial court erred:

I. IN DISMISSING THE COMPLAINT BY STATING IN ITS DECISION THAT THE PLAINTIFF-APPELLANT IS NOT A CO-OWNER OF THE PROPERTIES ENUMERATED IN THE COMPLAINT;

II. IN FINDING THAT THE DECISION IN SPC. PROC. NO. R-94 WAS OBTAINED THRU FRAUD AND MACHINATION;

III. IN NULLIFYING THE DECISION IN SPC. PROC. R-94 WHICH HAS LONG BECOME FINAL AND EXECUTORY; and

IV. IN AWARDING DEFENDANT-APPELLEE ATTORNEY'S FEES.[6]

On July 31, 2003,[7] the CA promulgated its Decision, *viz.*:

WHEREFORE, the appealed decision is **VACATED** and **SET ASIDE** and the case **REMANDED** to the lower court for the second phase of a partition suit without prejudice to the filing, if still available, of either a petition for relief from the decree of adoption rendered in Sp. Proc. No. R-94 of the then Court of First Instance of Occidental Mindoro (Branch II) or an action for annulment thereof.

SO ORDERED.[8]

The CA pointed out that even if the adoption proceedings had suffered from infirmities, the RTC did not have the authority to annul the adoption decree and to dismiss the complaint for partition for that reason; and that at

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5 Id. at 61-62.
6 Id. at 62.
7 Supra note 1.
8 Supra note 3.

any rate the petitioner still had the option either to file a petition for relief or an action for the annulment of the adoption decree in the appropriate court.

Issue

Hence, this appeal, with the petitioner asserting that:

> x x x THERE IS GRAVE ABUSE OF DISCRETION COMMITTED IN THE DECISION AS IT WRONGFULLY ALLOWED THE ILLEGAL USE OF A SURNAME BY THE RESPONDENT TO PURSUE A FRAUDULENT CLAIM AGAINST THE SUBSTANTIVE RIGHTS OF THE PETITIONER AND OF AN INDISPENSABLE PARTY WHO WAS NOT IMPLEADED AS ANY PARTY TO THE COMPLAINT.[9]
>
> x x x THERE IS SERIOUS ERROR IN THE DECISION, AS IT IS PREMISED ON MISAPPREHENSION OF FACTS WHICH WRONGFULLY SUSTAINED THE MANIFESTLY FRAUDULENT CLAIM BY THE FATHER OF THE RESPONDENT OF HER FILIATION WITH THE HUSBAND OF THE PETITIONER, WHICH IS NOW BEING INTERPOSED LONG AFTER HIS DEATH AND THRU A PETITION WHEREIN HE WAS NEVER A PARTY OR PETITIONER.[10]
>
> x x x THERE IS ERROR OF LAW COMMITTED IN THE DECISION, AS IT TOTALLY DISREGARDED THE DULY ESTABLISHED RULE AND JURISPRUDENCE THAT THE COUNTERCLAIM IN THE ANSWER OF THE PETITION IS A DIRECT ATTACK ON THE NULLITY OF THE ALLEGED PETITION AND JUDGMENT OF ADOPTION, AND THAT THE TRIAL COURT HAS THE AUTHORITY TO SET ASIDE THE SAID NULL AND VOID JUDGMENT AND TO DISMISS THE COMPLAINT.[11]
>
> x x x THE PETITION HAS TO BE GIVEN DUE COURSE, IN ORDER THAT THE MANDATES OF THE RULES AGAINST MULTIPLICITY OF SUITS SHALL BE UPHELD, PARTICULARLY THE GRANT OF THE COUNTERCLAIM OF THE PETITION FOR DECLARATION OF NULLITY OF THE ALLEGED PETITION AND JUDGMENT OF ADOPTION, AS WELL AS FOR THE FULL APPLICATION OF THE RULES ON INTESTATE PROCEEDINGS UNDER RULE 90 OF THE REVISED RULES OF COURT, FOR A FINAL RESOLUTION OF THE SUBSTANTIVE RIGHTS OF THE PARTIES IN ONE AND SINGLE PROCEEDING, THRU THE INSTANT PETITION.[12]

In her comment,[13] respondent Remedios Oribello insists that she had the right to the partition as the adopted daughter of the late Toribio Oribello; that the petitioner raised a new issue about her failure to implead Toribio Oribello, Jr. despite being an indispensable party for being the alleged son of

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9 *Rollo*, p. 26.
10 Id. at 31.
11 Id. at 41.
12 Id. at 49.
13 Id. at 271-278.

the late Toribio Oribello; that the misjoinder or non-joinder of parties was not a ground for the dismissal of an action, and could be corrected by a proper amendment; that the petitioner could not successfully assail the decree of adoption by the Court of First Instance in Occidental Mindoro; that unless such decree of adoption was properly annulled or set aside by a court of competent jurisdiction, she could not be barred from enforcing her right as the adopted daughter of the late Toribio Oribello; and that the petition for review should be denied for its utter lack of merit.

Ruling of the Court

The appeal is meritorious.

1.
The CA correctly held that the validity of the adoption decree in favor of the respondent should not be assailed in an action for partition

The petitioner insists that the complaint for partition must be dismissed based on her allegations that the adoption decree issued by the CFI, Branch II, of Occidental Mindoro was void; and that her attack against the adoption decree was akin to the counterclaim allowed in *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*,[14] an action for the nullification of a certificate of title, because the counterclaim constituted a direct attack on the title.

The petitioner's position is untenable.

In *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Company (now Bank of the Philippine Island)*,[15] the Court has traced the evolution of the action to annul the judgment or final order of the CFI, and, later on, of the RTC, and has indicated the proper court with jurisdiction over the action, as follows:

> The remedy of annulment of judgment has been long authorized and sanctioned in the Philippines. In *Banco Español-Filipino v. Palanca*, of 1918 vintage, the Court, through Justice Street, recognized that there were only two remedies available under the rules of procedure in force at the time to a party aggrieved by a decision of the Court of First Instance (CFI) that had already attained finality, namely: that under Sec. 113, *Code of Civil Procedure*, which was akin to the petition for relief from judgment under Rule 38, *Rules of Court*; and that under Sec. 513, *Code of Civil Procedure*, which stipulated that the party aggrieved under a judgment

[14] G.R. No. 151440, June 17, 2003, 404 SCRA 193.
[15] G.R. No. 159926, January 20, 2014, 714 SCRA 226.

rendered by the CFI "upon default" and who had been "deprived of a hearing by fraud, accident, mistake or excusable negligence" and the CFI had "finally adjourned so that no adequate remedy exists in that court" could "present his petition to the Supreme Court within sixty days after he first learns of the rendition of such judgment, and not thereafter, setting forth the facts and praying to have judgment set aside." It categorically ruled out a mere motion filed for that purpose in the same action as a proper remedy.

The jurisdiction over the action for the annulment of judgment had been lodged in the CFI as a court of general jurisdiction on the basis that the subject matter of the action was not capable of pecuniary estimation. Section 56, paragraph 1, of Act No. 136 (*An Act providing for the Organization of Courts in the Philippine Islands*), effective on June 11, 1901, vested original jurisdiction in the CFI over "all civil actions in which the subject of litigations is not capable of pecuniary estimation." The CFI retained its jurisdiction under Section 44(a) of Republic Act No. 296 (*The Judiciary Act of 1948*), effective on June 17, 1948, which contained a similar provision vesting original jurisdiction in the CFI over "all civil actions in which the subject of the litigation is not capable of pecuniary estimation."

In the period under the regimes of Act No. 136 and Republic Act No. 296, the issues centered on which CFI, or branch thereof, had the jurisdiction over the action for the annulment of judgment. It was held in *Mas v. Dumara-og* that "the power to open, modify or vacate a judgment is not only possessed by, *but is restricted to the court in which the judgment was rendered.*" In *J.M. Tuason & Co., Inc. v. Torres*, the Court declared that "the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs *solely* to the very same branch which rendered the judgment." In *Sterling Investment Corporation v. Ruiz*, the Court enjoined a branch of the CFI of Rizal from taking cognizance of an action filed with it to annul the judgment of another branch of the same court.

In *Dulap v. Court of Appeals*, the Court observed that the philosophy underlying the pronouncements in these cases was the policy of judicial stability, as expressed in *Dumara-og*, to the end that the judgment of a court of competent jurisdiction could not be interfered with by any court of concurrent jurisdiction. Seeing that the pronouncements in *Dumara-og*, *J.M. Tuason & Co., Inc.* and *Sterling Investment* confining the jurisdiction to annul a judgment to the court or its branch rendering the judgment would "practically amount to judicial legislation," the Court found the occasion to re-examine the pronouncements. Observing that the plaintiff's cause of action in an action to annul the judgment of a court "springs from the alleged nullity of the judgment based on one ground or another, particularly fraud, which fact affords the plaintiff a right to judicial interference in his behalf," and that that the two cases were distinct and separate from each other because "the cause of action (to annul judgment) is entirely different from that in the action which gave rise to the judgment sought to be annulled, for a direct attack against a final and executory judgment is not incidental to, but is the main object of, the proceeding," the Court concluded that "there is no plausible reason why the venue of the action to annul the judgment should necessarily follow the venue of the previous action" if the outcome was not only to violate the existing rule on venue for personal actions but also to limit the

opportunity for the application of such rule on venue for personal actions. The Court observed that the doctrine under *Dumara-og*, *J.M. Tuason & Co., Inc.* and *Sterling Investment* could then very well "result in the difficulties precisely sought to be avoided by the rules; for it could be that at the time of the filing of the second action for annulment, neither the plaintiff nor the defendant resides in the same place where either or both of them did when the first action was commenced and tried," thus unduly depriving the parties of the right expressly given them by the *Rules of Court* "to change or transfer venue from one province to another by written agreement – a right conferred upon them for their own convenience and to minimize their expenses in the litigation – and renders innocuous the provision on waiver of improper venue in Section 4 (of Rule 4 of the *Revised Rules of Court*)." The Court eventually ruled:

> Our conclusion must therefore be that a court of first instance or a branch thereof has the authority and jurisdiction to take cognizance of, and to act in, a suit to annul a final and executory judgment or order rendered by another court of first instance or by another branch of the same court. The policy of judicial stability, which underlies the doctrine laid down in the cases of *Dumara-og*, *J.M. Tuason & Co., Inc.* and *Sterling Investment Corporation, et al., supra,* should be held subordinate to an orderly administration of justice based on the existing rules of procedure and the law. x x x

In 1981, the Legislature enacted *Batas Pambansa Blg.* 129 (*Judiciary Reorganization Act of 1980*). Among several innovations of this legislative enactment was the formal establishment of the annulment of a judgment or final order as an action independent from the generic classification of litigations in which the subject matter was not capable of pecuniary estimation, and expressly vested the exclusive original jurisdiction over such action in the CA. The action in which the subject of the litigation was incapable of pecuniary estimation continued to be under the exclusive original jurisdiction of the RTC, which replaced the CFI as the court of general jurisdiction. Since then, the RTC no longer had jurisdiction over an action to annul the judgment of the RTC, eliminating all concerns about judicial stability. To implement this change, the Court introduced a new procedure to govern the action to annul the judgment of the RTC in the 1997 revision of the *Rules of Court* under Rule 47, directing in Section 2 thereof that "[t]he annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction."

The Court has expounded on the nature of the remedy of annulment of judgment or final order in *Dare Adventure Farm Corporation v. Court of Appeals*, *viz.*:

> A petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud. Yet, the remedy, being exceptional in character, is not allowed to be so easily and readily abused by parties aggrieved by the final judgments, orders or resolutions. The Court has thus instituted safeguards by limiting the grounds for the annulment to lack of jurisdiction and extrinsic fraud, and by

> prescribing in Section 1 of Rule 47 of the *Rules of Court* that the petitioner should show that the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper.
>
> The attitude of judicial reluctance towards the annulment of a judgment, final order or final resolution is understandable, for the remedy disregards the time-honored doctrine of immutability and unalterability of final judgments, a solid corner stone in the dispensation of justice by the courts. The doctrine of immutability and unalterability serves a two-fold purpose, namely: (*a*) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and (*b*) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why the courts exist. As to the first, a judgment that has acquired finality becomes immutable and unalterable and is no longer to be modified in any respect even if the modification is meant to correct an erroneous conclusion of fact or of law, and whether the modification is made by the court that rendered the decision or by the highest court of the land. As to the latter, controversies cannot drag on indefinitely because fundamental considerations of public policy and sound practice demand that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time.
>
> The objective of the remedy of annulment of judgment or final order is to undo or set aside the judgment or final order, and thereby grant to the petitioner an opportunity to prosecute his cause or to ventilate his defense. If the ground relied upon is lack of jurisdiction, the entire proceedings are set aside without prejudice to the original action being refiled in the proper court. If the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the CA may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein. The remedy is by no means an appeal whereby the correctness of the assailed judgment or final order is in issue; hence, the CA is not called upon to address each error allegedly committed by the trial court.

Based on the foregoing, the RTC did not have the jurisdiction to determine or to review the validity of the decree of adoption issued by the erstwhile CFI of Occidental Mindoro by virtue of the equal rank and category between the RTC and the CFI. The proper court with jurisdiction to do so was the CA, which has been vested by Section 9 of Batas Pambansa Blg. 129[16] with the exclusive original jurisdiction over actions for the annulment of the judgments of the RTC, to wit:

> Sec. 9. Jurisdiction. - The [Court of Appeals] shall exercise:

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[16] *The Judiciary Reorganization Act of 1980.*

x x x x

(2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and

x x x x

Conformably with the foregoing, therefore, we join the CA's following exposition, to wit:

> Even supposing that the first adoption case suffers from infirmities, the lower court is bereft of authority to annul the decree of adoption which was rendered by the CFI of Occidental Mindoro, a court of equal rank. Indeed, **no court has the authority to nullify the judgments or processes of another court of equal rank and category, having the equal power to grant the reliefs sought. Such power devolves exclusively upon the proper appellate court. The *raison d'etre* for the rule is to avoid conflict of power between different courts of equal or coordinate jurisdiction which would surely lead to confusion and seriously hinder the proper administration of justice** (*Gallardo-Corro vs, Gallardo*, 350 SCRA 568).[17] (Emphasis supplied)

It is also relevant to mention that the judgment or final order of a court of law can be set aside only through a direct attack commenced in the court of competent jurisdiction. For this reason, any attack in this action for partition against the validity of the adoption decree issued by the CFI of Occidental Mindoro cannot be permitted because such would constitute a collateral attack against the judgment in the adoption case.

2.
The respondent did not discharge her burden of proof as the plaintiff to show that she was entitled to the partition

Even as we uphold the CA's disquisition on forbidding the RTC's interference with the CFI's decree of adoption, we must reverse that part of the decision vacating and setting aside the judgment rendered by the RTC on March 30, 1998. It is our studied conclusion that the RTC correctly ruled against the right of respondent Remedios Oribello to demand the partition of the real property belonging to the late Tomas Oribello on the ground that she had not substantiated her right to the partition by preponderance of evidence.

Before going further, it is relevant to relive the nature of the remedy of judicial partition. The proceeding under Rule 69 of the *Rules of Court* is a judicial controversy between persons who, being co-owners or coparceners of common property, seek to secure a division or partition thereof among

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[17] *Rollo*, pp. 64-65.

themselves, giving to each one of them the part corresponding to him.[18] The object of partition is to enable those who own property as joint tenants, or coparceners, or tenants in common to put an end to the joint tenancy so as to vest in each a sole estate in specific property or an allotment in the lands or tenements.[19] According to American jurisprudence:[20]

> The right of compulsory partition, in the case of coparceners was the gift of the common law, but in the case of joint tenants and tenants in common it was first given by statutes. The common law, having established this right in favor of coparceners, because their relationship being created by it, and not by an act or choice of their own, as in the case of joint tenants and tenants in common, thought it reasonable that it should endure no longer than the parties should be pleased with it; but at the same time deemed it expedient as well as just, that they should not be placed in worse condition by the partition, than if they had continued to enjoy their respective interests in the lands or property without a division. x x x [T]herefore, after the partition a warranty was annexed by the common law to each part, so that, if any one should be impleaded, she might vouch her sisters, or those who had been her coparceners at the time of the partition, or their heirs, and by this means also have their aid to deraign the warranty paramount, if any existed, annexed to the purchase of their ancestor. (citations omitted)

To accord with the nature of the remedy of judicial partition, there are two stages defined under Rule 69 of the *Rules of Court*. The first relates to the determination of the rights of the parties to the property held in common. The second concerns the physical segregation of each party's just share in the property held in common. The second stage need not be gone into should the parties agree on the physical partition. As Justice Regalado discussed in *De Mesa v. Court of Appeals*:[21]

> The first stage of an action for judicial partition and/or accounting is concerned with the determination of whether or not a co-ownership in fact exists and a partition is proper, that is, it is not otherwise legally proscribed and may be made by voluntary agreement of all the parties interested in the property. This phase may end in a declaration that plaintiff is not entitled to the desired partition either because a co-ownership does not exist or a partition is legally prohibited. It may also end, on the other hand, with an adjudgment that a co-ownership does in truth exist, that partition is proper in the premises, and that an accounting of rents and profits received by the defendant from the real estate in question is in order. In the latter case, "the parties may, if they are able to agree, make partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by all the parties." In either case, whether the action is dismissed or partition and/or accounting is decreed, the order is a final one and may be appealed by any party aggrieved thereby.

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[18] *Reyes v. Cordero*, 108 Phil. 867 (1920).

[19] Id.

[20] 31 Words and Phrases, 262, *Partition*, citing *Weiser v. Weiser*, 5 Watts (Pa.) 279, 280-281, 30 Am. Dec. 313.

[21] G.R. No. 109387, April 25, 1994, 231 SCRA 773, 780-781.

> The second stage commences when the parties are unable to agree upon the partition ordered by the court. In that event, partition shall be effected for the parties by the court with the assistance of not more than three (3) commissioners. This second phase may also deal with the rendition of the accounting itself and its approval by the Court after the parties have been accorded the opportunity to be heard thereon, and an award for the recovery by the party or parties thereto entitled of their just shares in the rents and profits of the real estate in question. Such an order is, to be sure, also final and appealable.
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> In the decision ordering partition, the execution of that part of the judgment which will not necessitate any further proceedings may be enforced. Further proceedings, such as the appointment of commissioners to carry out the partition and the rendition and approval of the accounting, may be had without prejudice to the execution of that part of the judgment which needs no further proceedings. Thus, it has been held that execution was entirely proper to enforce the defendant's obligation to render an accounting and to exact payment of the money value of the plaintiffs' shares in the personal property and attorney's fees due defendants, as well as the costs of the suit and damages.

In this case, the CA has declared that Remedios Oribello, being the adopted daughter of the late Toribio Oribello, was entitled to the judicial partition she hereby demanded by virtue of the decree of adoption of the CFI. Hence, it has remanded the case to the RTC for the second stage of the partition proceedings.

The declaration of the CA in favor of Remedios Oribello was factually unwarranted. As the plaintiff, she had the burden of proof, as the party demanding the partition of property, to establish her right to a share in the property by preponderance of evidence, but she failed to provide the factual basis of her right to the partition warranted the dismissal of her claim for judicial partition.

In its assailed judgment, the RTC found that Remedios Oribello *did not satisfactorily establish her co-ownership of the properties left by the late Toribio Oribello*, cogently observing as follows:

> The combination of all those stated above prods this Court to conclude that Toribio Oribello did not testify in the court hearing of February 18, 1974 in Special Proceeding No. R-94. As per record of the case, it was a certain Toribio Orivillo who testified on that date. In the earlier part of this Decision (page 12), this Court made the pronouncement that the names Toribio Orivillo, used in Special Proceeding No. R-94, and Toribio Oribello, used in Special Proceeding No. R-274, refer to the same person. Both names refer to the same person as they were meant to refer to the same physical person, but the physical person who physically appeared and actually testified before the Court of First Instance in San Jose, Occidental Mindoro on February 18, 1974 was not Toribio Oribello but one Toribio Orivillo or purporting to be one Toribio Orivillo, a person

physically different from the physical Toribio Oribello. There are several reasons why. According to Atty. Jaravata, the spouses Orivillo were in a hurry to go back to the United States (TSN, November 17, 1997, page 6) which explained the reason why they were not able to sign the petition for adoption. The petition (Exhibit "J") is a one-page petition, typed double-spaced. It is accompanied by a one-page affidavit of consent to adoption executed by natural parents Alfredo Selga and Amada Selga, also typed double-spaced. This one-page petition could be prepared within five minutes. It would not take ten minutes to prepare this one-page petition assuming the typist is a slow one. If spouses Orivillo were in a hurry to go back to the United States, a delay of ten minutes will not make much difference considering the fact that they were still in the offices of Atty. Jaravata in San Jose, Occidental Mindoro. They were not in the airport about to take their flight to the United States. The second reason is that if both spouses were really there, they could have corrected the spelling of the surname, from Orivillo to Oribello. The third reason is that only one month separated the filing of the petition and its hearing. It would not be economical for the would-be-adopter, who was not shown to have been very rich but merely a sugar worker, to go to the United States in a hurry and then come back here in the Philippines within a period of just thirty (30) days, who, upon facts established in this case, did not show much interest in exercising parental authority over the supposedly-adopted child. She remained in Occidental Mindoro. If this Toribio Orivillo was portrayed as being an eager-beaver childless parent in coming back here in the Philippines within thirty days from departing the country in a hurry for the purpose of testifying in our court of law so that he could adopt said Remedios Selga and have the experience of exercising parental authority, the facts established in this case show that such portrayal was misleading and untruthful in that he never showed interest to such adoption. Neither did he show interest or anxiety over that child, Remedios Selga. The explanation of Atty. Ernesto Jaravata that they were in a hurry to go back to the United States was merely to justify the absence of the signatures of both spouses in the one-page petition. Fourth, in the hearing of February 18, 1974, if the real Toribio Oribello appeared in Court, he would have corrected his surname and he would have stated his citizenship. It would be unnatural for a person not to react when his surname is misspelled. Also, his citizenship was not stated just like in the petition. It is required in adoption cases to state the citizenship of the adopter because there are legal requirements to satisfy in case of a foreigner adopting a Filipino citizen.

The petitioner Toribio Orivillo who testified in Special Proceeding No. R-94 was not the real Toribio Oribello who was born on April 16, 1910 in Agoo, La Union and who died on August 18, 1993 in Agoo, La Union. Somebody with the name Toribio Orivillo or purporting to be such stood for him and testified for him in the then Court of First Instance based in San Jose, Occidental Mindoro on February 18, 1974.

As plaintiff's natural father said, Toribio Oribello did not know about the second adoption case (TSN, January 14, 1998, page 22).

This Court concludes now without an iota of doubt that Toribio Oribello did not know also about the first adoption case (Special Proceeding No. R-94) just like the second one (Special Proceeding No. R-274). While the second part of the Rule on res inter alios acta states that evidence that one did or did not do a certain thing at one time is not

> admissible to prove that he did or did not do the same or similar thing at another time, it may be received to prove a specific intent, plan or scheme. Under the circumstances, these were machinations orchestrated by Alfredo Selga as he himself expressly admitted with respect to the second adoption case.
>
> This case is an action for judicial partition. As stated by the Supreme Court in the case of Municipality of Biñan v. Garcia, December 22, 1989, a judicial partition has two phases. The first phase is an inquiry as to whether there exists co-ownership of properties by several persons. The second phase is on the actual partition and accounting, if applicable.
>
> This Court finds that no-co-ownership exists between plaintiff and defendant. Hence, we cannot proceed to the second phase.[22]

The foregoing findings by the RTC, that the **Tomas Orivillo** who had legally adopted Remedios Oribello under the CFI's decree of adoption was not the same person as the **Tomas Oribello** whose property was the subject of her demand for judicial partition, were supported by the records. In finding so, the RTC did not interfere with the jurisdiction of the CFI as a court of equal rank and category, and did not negate the adoption decree, but simply determined whether or not the claim of Remedios Oribello to the partition of the property of Tomas Oribello was competently substantiated by preponderance of evidence. What the RTC thereby settled was only whether Remedios Oribello was a co-owner of the property with Berlinda Oribello, the widow of Tomas Oribello. The RTC, being the trial court with jurisdiction over the action for partition, undeniably possessed the fullest authority to hear and settle the conflicting claims of the parties.

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the Decision promulgated on July 31, 2003 by the Court of Appeals; **REINSTATES** the Judgment of the Regional Trial Court rendered on March 30, 1998 dismissing Civil Case No. A-1757 entitled *Remedios Oribello, represented by her Atty.-in-Fact Alfredo Selga v. Berlinda P. Oribello*; and **ORDERS** respondent Remedios Oribello to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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[22] CA *rollo*, pp. 61-65.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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