



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

TEOFILO B. ADOLFO,
Petitioner,

G.R. No. 201427

Present:

- versus -

CARPIO, *Acting Chief Justice,**
 VELASCO, JR.,**
 DEL CASTILLO,
 MENDOZA, *and*
 LEONEN, *JJ.*

FE. T. ADOLFO,
Respondent.

Promulgated:

18 MAR 2015

X

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DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*¹ seeks to set aside: 1) the October 6, 2009 Decision² of the Court of Appeals (CA) in CA-G.R. CV No. 01783 reversing the October 2, 2006 Order³ of the Regional Trial Court, 7th Judicial Region, Mandaue City (RTC Mandaue), Branch 55 in Civil Case No. MAN-4821; as well as 2) the CA's March 2, 2012 Resolution⁴ denying petitioner's Motion for Reconsideration⁵ and Supplement⁶ thereto.

Civil Case No. MAN-4821

On April 14, 2004, petitioner Teofilo B. Adolfo filed with the RTC

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* Per Special Order No. 1945 dated March 12, 2015.

** Per Special Order No. 1951 dated March 18, 2015.

¹ *Rollo*, pp. 3-26.

² *Id.* at 182-192; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Manuel M. Barrios and Samuel H. Gaerlan.

³ *Id.* at 151-159; penned by Judge Ulric R. Canete.

⁴ *Id.* at 239-241; penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Abraham B. Borreta.

⁵ *Id.* at 193-202.

⁶ *Id.* at 229-238.

Mandaue a Petition⁷ for judicial separation of property against his estranged wife, respondent Fe Adolfo, nee Tuatud. Docketed as Civil Case No. MAN-4821 and assigned to Branch 55, the petition alleged that the parties were married on November 26, 1966; that the union bore one child; that during the marriage, they acquired through conjugal funds Lot 1087-A-2-E, a 3,652-square meter property in Brgy. Cabancalan, Mandaue City, Cebu (the subject property) covered by Transfer Certificate of Title No. (TCT) 18368; that later on, the parties separated due to irreconcilable differences; that since reunion was no longer feasible, petitioner suggested a separation of the conjugal property, but respondent adamantly refused; that respondent denied petitioner's co-ownership of the subject property, claiming the same as her paraphernal property; that several earnest efforts to amicably settle the matter between them proved unavailing; and that a judicial separation of property is proper under the circumstances and pursuant to Article 135(6) of the Family Code.⁸ Petitioner thus prayed that judgment be rendered decreeing a separation of the conjugal property and the subdivision or sale thereof, to the end of dividing the same or the proceeds thereof; and ordering respondent to pay petitioner ₱50,000.00 as attorney's fees, appearance fees (₱2,000.00 per hearing), and ₱20,000.00 litigation costs.

In her Answer⁹ with counterclaim, respondent contended that while she remained married to petitioner, she is the sole owner of the subject property, the same being her paraphernal property which she inherited from her mother; that petitioner is a lazy bum, gambler, drunkard, wife abuser, and neglectful father; that respondent found all means to support the family even as petitioner neglected it; that respondent bought on installment a tricycle for the petitioner's use in business, but he kept the proceeds thereof to himself and used the same in his gambling and drinking sprees; that respondent alone took the initiative to support the family and found ways to take care of the daily needs of her child; that she caused to be built on a portion of her mother's land a house even while petitioner was bumming around; that one day, petitioner destroyed the roof of the house that was then being built; that petitioner subsequently abandoned her and their child in 1968, and transferred to Davao City where he took a mistress and begot four children by her; that in 1986, petitioner returned to Cebu City seeking reconciliation with respondent; that respondent took petitioner back, but in 1987 they once more separated; that thereafter, respondent never again saw or heard from petitioner.

⁷ Id. at 27-31.

⁸ Art. 135. Any of the following shall be considered sufficient cause for judicial separation of property:

(1) That the spouse of the petitioner has been sentenced to a penalty which carries with it civil interdiction;

(2) That the spouse of the petitioner has been judicially declared an absentee;

(3) That loss of parental authority of the spouse of petitioner has been decreed by the court;

(4) That the spouse of the petitioner has abandoned the latter or failed to comply with his or her obligations to the family as provided for in Article 101;

(5) That the spouse granted the power of administration in the marriage settlements has abused that power; and

(6) That at the time of the petition, the spouses have been separated in fact for at least one year and reconciliation is highly improbable.

In the cases provided for in Numbers (1), (2) and (3), the presentation of the final judgment against the guilty or absent spouse shall be enough basis for the grant of the decree of judicial separation of property.

⁹ *Rollo*, pp. 38-44.

Respondent claimed in her Answer that the subject property was a portion of a bigger lot (mother lot) owned by her mother Petronila Tudtud which was covered by TCT T-15941. On October 11, 1967, her mother executed a quitclaim deed transferring a portion of the mother lot – the subject property – to respondent. The mother title TCT T-15941 was then cancelled and a new one, TCT (17216)-5415, was issued in respondent's name. Respondent then sold the subject property to her brother on January 19, 1968, and a new TCT (17833)-5515 was issued in her brother's name. Her brother then mortgaged the property to Development Bank of the Philippines (DBP), which foreclosed on the same. TCT 18231 was issued in DBP's name. DBP then sold the property to the spouses Antonio and Lucy Garcia (the Garcias), and TCT 18266 was in turn issued in their name. Finally, on May 25, 1983, the Garcias sold back the subject property to respondent, and a new title – TCT 18368¹⁰ – was then issued in the name of respondent “FE M. TUdTUD, x x x married to Teofilo Adolfo.”

Respondent argued that she is the sole owner of the subject property, the same being her paraphernal property which she alone redeemed from the Garcias; that the inclusion of petitioner's name in TCT 18368 does not make him a co-owner of the property, but was merely necessary to describe respondent's civil status; and that under Article 135¹¹ of the Civil Code, all property brought by the wife to the marriage as well as all property she acquires during the marriage in accordance with Article 148¹² of the same Code constitutes paraphernal property.

Respondent thus prayed that the petition be dismissed. By way of counterclaim, she sought the payment of moral, exemplary, and nominal damages, attorney's fees, and litigation expenses.

Civil Case No. MAN-2683

In 1996, respondent's sister Florencia Tudtud and her husband Juanito Gingoyon (the Gingoyons) filed a case for partition with damages against respondent. The case was docketed as Civil Case No. MAN-2683 and raffled to Branch 55 of the RTC Mandaue. The Complaint¹³ therein alleged that in 1988, respondent executed a deed of sale in favor of the Gingoyons over a 300-square meter portion of the subject property, but that respondent refused to partition/subdivide the same even after the Gingoyons paid the taxes, fees and

¹⁰ Id. at 33-34.

¹¹ Art. 135. All property brought by the wife to the marriage, as well as all property she acquires during the marriage, in accordance with article 148, is paraphernal.

¹² Art. 148. The following shall be the exclusive property of each spouse:

(1) That which is brought to the marriage as his or her own;

(2) That which each acquires, during the marriage, by lucrative title;

(3) That which is acquired by right of redemption or by exchange with other property belonging to only one of the spouses;

(4) That which is purchased with exclusive money of the wife or of the husband.

¹³ *Rollo*, pp. 57-60.

expenses of the sale. For her defense, respondent claimed in her Answer¹⁴ that when the sale to the Gingoyons was made, the subject property constituted conjugal property of her marriage with petitioner; that as early as 1983, or when the Garcias executed the deed of sale in her favor, the subject property became a conjugal asset; since petitioner did not sign the deed of sale in favor of the Gingoyons as he was in Davao at the time and knew nothing about the sale, the sale was null and void.

On May 15, 2002, the trial court rendered its Decision¹⁵ in Civil Case No. MAN-2683, declaring that the subject property constituted conjugal property of the marriage. It thus nullified the 1988 deed of sale executed by respondent in favor of the Gingoyons for lack of consent on the part of petitioner, citing Article 124 of the Family Code.¹⁶ The trial court likewise awarded moral and exemplary damages, attorney's fees and litigation expenses in favor of the respondent in the total amount of ₱107,000.00.

The Gingoyons filed an appeal with the CA, which was docketed as CA-G.R. CV No. 78971.

Motion for Judgment Based on the Pleadings in Civil Case No. MAN-4821

Meanwhile, during the pre-trial conference in Civil Case No. MAN-4821, petitioner submitted as part of his evidence and for marking certified true copies of the Gingoyons' Complaint in Civil Case No. MAN-2683, respondent's Answer thereto, and the trial court's May 15, 2002 Decision in said case.

On August 1, 2005, petitioner filed a Request for Admission¹⁷ of 1) the genuineness of the duly marked certified true copies of the Complaint, Answer, and Decision in Civil Case No. MAN-2683 (Exhibits "F," "G" and "H," respectively); 2) respondent's declaration in said Answer that the subject property constituted conjugal property of the marriage; and 3) the trial court's pronouncement in said case that the subject property forms part of the conjugal estate.

¹⁴ Id. at 61-65.

¹⁵ Id. at 66-79; penned by Judge Ulric R. Canete.

¹⁶ Art. 124. The administration and enjoyment of the conjugal partnership property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

¹⁷ *Rollo*, pp.55-56.

Respondent failed to file her answer or response to the request for admission.

On September 5, 2005, petitioner filed a Motion for Judgment Based on the Pleadings,¹⁸ stating that since respondent failed to answer his request for admission, the matters contained in the request are deemed admitted pursuant to Rule 26, Section 2 of the 1997 Rules of Civil Procedure¹⁹ (1997 Rules); that as a consequence of the application of the rule, respondent is in effect considered to have admitted that the subject property is a conjugal asset of their subsisting marriage which may thus be the subject of his petition for judicial separation of property; and that on account of said admission, a hearing on the merits becomes unnecessary and, instead, Rule 34²⁰ of the 1997 Rules on judgments on the pleadings should apply. Petitioner thus prayed that the trial court render judgment in his favor based on the pleadings.

Respondent filed an Opposition.²¹ In her Opposition to Plaintiff's Memorandum,²² respondent argued among others that the request for admission was premature considering that the decision in Civil Case No. MAN-2683 was the subject of an appeal, and thus not yet final.

In an October 11, 2005 Order,²³ the trial court directed the transfer of Civil Case No. MAN-4821 to Branch 55 of the RTC Mandaue, since it is said court which decided the closely related Civil Case No. MAN-2683.

On October 2, 2006, Branch 55 issued an Order²⁴ granting petitioner's motion for judgment on the pleadings. It held as follows:

¹⁸ Id. at 80-82.

¹⁹ RULE 26 ADMISSION BY ADVERSE PARTY

x x x x

Sec. 2. Implied admission. – Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.

Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable.

²⁰ RULE 34 JUDGMENT ON THE PLEADINGS

Section 1. Judgment on the pleadings. – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved.

²¹ *Rollo*, pp. 84-86.

²² Id. at 97-105.

²³ Id. at 87.

²⁴ Id. at 151-159; penned by Judge Ulric R. Cañete.

This court has painstakingly exerted effort in going over the record and took serious note of all the pleadings, documents and others on file. After serious consideration, the court believes and so holds that there is basis in rendering judgment. The Motion for Judgment Based on the Pleadings though denominated as such but [sic] shall be treated as a move to seek summary judgment. x x x

x x x x

The court in arriving at this resolution was guided by the following pronouncements by the Supreme Court in the case of Diman vs. Alumbres, G.R. No. 131466, November 27, 1998, 299 SCRA 459 x x x:

x x x x

In the same case, it was held –

“It is also the law which determines when a summary judgment is proper. It declares that although the pleadings on their face appear to raise issues of fact – e.g., there are denials of, or a conflict in, factual allegations – *if it is shown by admissions, depositions or affidavits, that those issues are sham, fictitious, or not genuine, or, in the language of the Rules, that ‘except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law, the Court shall render a summary judgment for the plaintiff or the defendant, as the case may be. (Italics and underscoring supplied)*

On the other hand, in the case of a summary judgment[,], issues apparently exist – i.e., facts are asserted in the complaint regarding which there is as yet no admission, disavowal or qualification; or specific denials or affirmative defenses are in truth set out in the answer – but the issues thus arising from the pleadings are sham, fictitious, not genuine, as shown by [affidavits], depositions or admissions. In other words, as a noted authority remarks, a judgment on the pleadings is a judgment on the facts as pleaded, *while a summary judgment is a judgment on the facts as summarily proven by affidavits, depositions or admissions.*” (Italics and underscoring supplied)

x x x x

Defendant²⁵ did not file any verified answer or a pleading denying under oath the genuineness and authenticity of the documents attached to the Request for Admission and of the other matters therein set forth. This failure has far reaching implications in that the following are deemed admitted: a) the genuineness of Exhibits F, G and H, all attached to the Request for Admission; b) that she admitted in paragraph 10 in her Answer to Civil Case No. MAN-2683 that Lot 1087-A-2-E was no longer paraphernal property but rather a conjugal property of Spouses Teofilo and Fe Adolfo and; c) that RTC, Branch 55, Mandaue City, sustained and/or held the view of defendant (Fe Ttudud) that Lot

²⁵ Herein respondent.

1087-A-2-E is a conjugal property of Spouses Teofilo and Fe Adolfo, thus, dismissed Civil Case No. MAN-2683 and awarded damages to the defendant.

Judicial admissions may be made in (a) the pleadings filed by the parties, (b) in the course of the trial either by verbal or written manifestations or stipulations, or (c) in other stages of the judicial proceeding, as in the pre-trial of the case. Admissions obtained through depositions, written interrogatories or requests for admission are also considered judicial admissions.” Page 686, Remedial Law Compendium, Vol. II, 9th Rev. Ed., Regalado

With the admission that Lot 1087-A-2-E is a conjugal property, it follows as its necessary and logical consequence, that plaintiff²⁶ is entitled to the relief demanded.

x x x x

A DECISION in Civil Case No. MAN-2683 had already been rendered by RTC, Branch 55, on the 15th day of May 2002 with the court finding that Lot 1087-A-2-E is a conjugal property x x x –

x x x x

For reason[s] of expediency and convenience, the court may even take judicial notice of its earlier decision finding Lot 1087-A-2-E as a conjugal property.²⁷

x x x x

Under the circumstances, judicial separation of property is proper. Aware that the separation has the effect of a dissolution of the conjugal partnership property regime, the presumptive legitime of Nilo Adolfo (the only common child of the spouses) has to be delivered in accordance with Article 51 in relation to paragraph (8) Article 127 and Article 137 of the Family Code of the Philippines.

WHEREFORE, premises considered, judgment is hereby rendered directing the partition of Lot 1087-A-2-E between the plaintiff and the defendant in equal share of what remains after allocating to Nilo Adolfo a portion of Nine hundred thirteen (913) square meters representing his presumptive legitime.

The plaintiff is directed to submit to this court the proposed subdivision plan for its consideration before submitting the same for approval to the Bureau of Lands.

In case of disagreement as to their respective location, the same shall be done through raffle to be conducted by the sheriff who shall see to it that judgment in this case shall be fully implemented.

SO ORDERED.²⁸

²⁶ Herein petitioner.

²⁷ In Civil Case No. MAN-2683.

²⁸ *Rollo*, pp. 153-159.

Respondent instituted an appeal with the CA, which was docketed as CA-G.R. CV No. 01783.

Court of Appeals Decision in CA-G.R. CV No. 78971

Meanwhile, on May 30, 2007, the CA rendered its Decision²⁹ in CA-G.R. CV No. 78971. It reversed the May 15, 2002 Decision of the trial court in Civil Case No. MAN-2683. It declared, among others, that the subject property was respondent's paraphernal property. Thus, it held:

Proceeding from the foregoing consideration, the finding that Lot No. 1087-A-2-E is a conjugal property does not have any basis, hence, does not have any merit at all. On the contrary, plaintiffs-appellants³⁰ sufficiently proved that the aforesaid lot was defendant-appellee's³¹ paraphernal property as the latter even admitted that she inherited the same from her mother although she claimed it as a conjugal property based on the TCT's attached to her answer. Another strong indication that Lot No. 1087-A-2-E is solely owned by defendant-appellee is the fact that in another case (Civil Case No. MAN-2008) involving the same property and the same parties but for a different issue (road right of way), defendant-appellee alone signed the compromise agreement ceding a portion of the subject lot as a right of way perpetually open and unobstructed for the benefit of plaintiffs-appellants, defendant-appellee, their respective heirs, assigns and transferees and guests. The same compromise agreement which became the decision of the case attained finality without defendant-appellee questioning the absence of her husband's signature.

X X X X

WHEREFORE, prescinding from the foregoing premises, the appeal is hereby GRANTED and the Decision of the Regional Trial Court of Mandaue City, Branch 55, dated 15 May 2002, in Civil Case No. MAN-2683 is REVERSED and SET ASIDE.

Let the partition of Lot No. 1087-A-2-E consisting of 300 square meters bought by plaintiffs-appellants from defendant-appellee be done in accordance to [sic] the sketch plan executed for that purpose.

SO ORDERED.³²

On June 23, 2007, the above CA decision became final and executory.³³

²⁹ Id. at 135-150; penned by Associate Justice Priscilla Baltazar-Padilla and concurred in by Associate Justices Pampio A. Abarintos and Stephen C. Cruz.

³⁰ The Gingoyons.

³¹ Herein respondent.

³² *Rollo*, pp. 144-149.

³³ Id. at 270; Entry of Judgment in CA-G.R. CV No. 78971.

Ruling of the Court of Appeals in CA-G.R. CV No. 01783

In CA-G.R. CV No. 01783, respondent filed her Appellant's Brief,³⁴ where she argued that the trial court erred in issuing its October 2, 2006 Order directing the partition or sale of the subject property; that it was error for the trial court to take judicial notice of its own judgment in Civil Case No. MAN-2683 and thus declare that the subject property is conjugal, since the issue of whether it constitutes conjugal or paraphernal property was still pending in the appeal in CA-G.R. CV No. 78971; that since the proceedings in Civil Case No. MAN-2683 have not been terminated and the issue regarding the character of the subject property has not been resolved with finality, then petitioner's resort to a request for admission and motion for judgment on the pleadings was premature; and that with the May 30, 2007 Decision in CA-G.R. CV No. 78971, petitioner and the trial court should submit to the finding therein that the subject property is her paraphernal property.

In his Appellee's Brief,³⁵ petitioner insisted that the trial court did not err in treating his motion for judgment on the pleadings as one for summary judgment; that respondent's Answer in Civil Case No. MAN-2683 constituted a judicial admission that the subject property was a conjugal asset, which required no further proof; that respondent's failure to reply to his written request for admission also resulted in the acknowledgment that the subject property is a conjugal asset; that the trial court correctly took judicial notice of the proceedings in Civil Case No. MAN-2683, as they were relevant and material to the resolution of Civil Case No. MAN-4821; that since it was not respondent who appealed the May 15, 2002 decision in Civil Case No. MAN-2683, then the finding therein that the subject property is conjugal should bind her; and that the CA's eventual finding in CA-G.R. CV No. 78971 that the subject lot was respondent's paraphernal property cannot bind him because he was not a party to Civil Case No. MAN-2683.

On October 6, 2009, the CA issued the assailed Decision containing the following decretal portion:

WHEREFORE, based from the foregoing premises, the Order of the Regional Trial Court, Branch 55, Mandaue City, in Civil Case No. MAN-4821, is hereby REVERSED and SET ASIDE and the records of this case are remanded to RTC (Branch 55), Mandaue City, for further proceedings.

SO ORDERED.³⁶

³⁴ Id. at 116-133.

³⁵ Id. at 160-181.

³⁶ Id. at 192.

In arriving at the above conclusion, the CA held that the trial court cannot treat petitioner's motion for judgment on the pleadings as one for summary judgment. It stated that in a proper case for judgment on the pleadings, there are no ostensible issues at all on account of the defending party's failure to raise an issue in his answer, while in a proper case for summary judgment, such issues exist, although they are sham, fictitious, or not genuine as shown by affidavits, depositions or admissions. In other words, a judgment on the pleadings is a judgment on the facts as pleaded, while a summary judgment is a judgment on the facts as summarily proved by affidavits, depositions, or admissions.³⁷ It added that respondent's Answer appeared on its face to tender an issue; it disputed petitioner's claim that the subject property is their conjugal property. The next thing to be determined is whether this issue is fictitious or sham as to justify a summary judgment.

The CA added that although respondent was bound by the resulting admission prompted by her failure to reply to petitioner's request for admission, her claims and documentary exhibits clearly contradict what petitioner sought to be admitted in his request; that the trial court disregarded the fact that the issue of whether the subject property is conjugal was still unresolved as CA-G.R. CV No. 78971 was still pending; and that finally, the trial court should have been guided by the principles that trial courts have but limited authority to render summary judgments and that summary judgments should not be rendered hastily.³⁸

Petitioner moved to reconsider, but in a March 2, 2012 Resolution, he was rebuffed. Hence, the present Petition was filed on April 30, 2012.

In a March 20, 2013 Resolution,³⁹ the Court resolved to give due course to the instant Petition.

Issue

Petitioner now claims that the Court of Appeals erred in deciding the case on a question of substance not in accord with law, Rule 26 of the 1997 Rules, and applicable jurisprudence.⁴⁰

Petitioner's Arguments

In his Petition seeking to reverse and set aside the assailed CA dispositions

³⁷ Citing *Wood Technology Corporation v. Equitable Banking Corporation*, 492 Phil. 106 (2005).

³⁸ Citing *Excelsa Industries, Inc. v. Court of Appeals*, 317 Phil. 664 (1995).

³⁹ *Rollo*, pp. 287-288.

⁴⁰ *Id.* at 12.

and thus reinstate the October 2, 2006 Order of the trial court, petitioner insists that respondent's failure to reply to his written request for admission resulted in her admitting that the subject property is a conjugal asset, applying Rule 26, Section 2 of the 1997 Rules; that the CA grossly erred in disregarding the rule; that with the resulting admission, there remains no genuine issue to be resolved in Civil Case No. MAN-4821, such that judgment based on the pleadings is proper. Finally, petitioner adds that respondent's trifling with the law and rules of procedure – by conveniently claiming in one case that the subject property is conjugal, and then in another that it is paraphernal – should not be countenanced; she should be held to her original declaration that the subject property is conjugal.

Respondent's Arguments

In her Comment,⁴¹ respondent counters that, as correctly ruled by the CA, petitioner elected the wrong remedy in filing a motion for judgment on the pleadings when he should have moved for summary judgment; that in a motion for judgment on the pleadings, the movant is deemed to admit the truth of all of the opposing party's material and relevant allegations, and rest his motion on those allegations taken together with that of his own as are admitted in the pleadings;⁴² that the effect of this is that petitioner is deemed to have admitted that the subject property is paraphernal, as claimed in her Answer; that with the final and executory May 30, 2007 Decision of the CA in CA-G.R. CV No. 78971, the subject property should now be considered as her paraphernal property, and petitioner's case for partition on the claim that the subject property is conjugal should be dismissed for being moot and academic.

Our Ruling

The Court denies the Petition.

Judgment on the pleadings is proper “where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading.”⁴³ Summary judgment, on the other hand, will be granted “if the pleadings, supporting affidavits, depositions, and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”⁴⁴

We have elaborated on the basic distinction between summary judgment and judgment on the pleadings, thus:

⁴¹ Id. at 245-253.

⁴² Citing *Bauermann v. Casas*, 10 Phil. 386 (1908); *Evangelista v. Dela Rosa*, 76 Phil. 115 (1946); and *Aquino v. Blanco*, 79 Phil. 647 (1947).

⁴³ RULES OF COURT, Rule 34, Section 1.

⁴⁴ Id., Rule 35, Section 3.

The existence or appearance of ostensible issues in the pleadings, on the one hand, and their sham or fictitious character, on the other, are what distinguish a proper case for summary judgment from one for a judgment on the pleadings. In a proper case for judgment on the pleadings, there is no ostensible issue at all because of the failure of the defending party's answer to raise an issue. On the other hand, in the case of a summary judgment, issues apparently exist — i.e. facts are asserted in the complaint regarding which there is as yet no admission, disavowal or qualification; or specific denials or affirmative defenses are in truth set out in the answer—but the issues thus arising from the pleadings are sham, fictitious or not genuine, as shown by affidavits, depositions, or admissions.⁴⁵

An answer would “fail to tender an issue” if it “does not deny the material allegations in the complaint or admits said material allegations of the adverse party's pleadings by confessing the truthfulness thereof and/or omitting to deal with them at all. Now, if an answer does in fact specifically deny the material averments of the complaint and/or asserts affirmative defenses (allegations of new matter which, while admitting the material allegations of the complaint expressly or impliedly, would nevertheless prevent or bar recovery by the plaintiff), a judgment on the pleadings would naturally be improper.”⁴⁶

On the other hand, “whether x x x the issues raised by the Answer are genuine is not the crux of inquiry in a motion for judgment on the pleadings. It is so only in a motion for summary judgment. In a case for judgment on the pleadings, the Answer is such that no issue is raised at all. The essential question in such a case is whether there are issues generated by the pleadings.”⁴⁷ “A ‘genuine issue’ is an issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim. When the facts as pleaded appear uncontested or undisputed, then there is no real or genuine issue or question as to the facts, and summary judgment is called for.”⁴⁸

In rendering summary judgment, the trial court relied on respondent's failure to reply to petitioner's request for admission, her admission in Civil Case No. MAN-2683, as well as its May 15, 2002 Decision declaring that the subject property is a conjugal asset. It took judicial notice of the proceedings in said case. While there is nothing irregular with this – as courts may “take judicial notice of a decision or the facts prevailing in another case sitting in the same court if (1) the parties present them in evidence, absent any opposition from the other party; or (2) the court, in its discretion, resolves to do so”⁴⁹ – the trial court however disregarded the fact that its decision was then the subject of a pending appeal in CA-G.R. CV No. 78971. It should have known that until the appeal is resolved by the appellate court, it would be premature to render judgment on petitioner's

⁴⁵ *Tan v. De la Vega*, 519 Phil. 515, 527 (2006). Citation omitted.

⁴⁶ *Id.* at 522.

⁴⁷ *Wood Technology Corporation v. Equitable Banking Corporation*, supra note 37 at 114.

⁴⁸ *Tan v. De la Vega*, supra note 45 at 528.

⁴⁹ *Land Bank of the Philippines v. Yatco Agricultural Enterprises*, G.R. No. 172551, January 15, 2014, 713 SCRA 370, 384.

motion for judgment on the pleadings; that it would be presumptuous to assume that its own decision would be affirmed on appeal. One of the issues raised in the appeal is precisely whether the subject property is conjugal, or a paraphernal asset of the respondent. Thus, instead of resolving petitioner's motion for judgment on the pleadings, the trial court should have denied it or held it in abeyance. It should have guided petitioner to this end, instead of aiding in the hasty resolution of his case. In the first place, Civil Case No. MAN-4821 was transferred to it from Branch 56 precisely for the reason that it was the court which tried the closely related Civil Case No. MAN-2683.

Even if respondent is deemed to have admitted the matters contained in petitioner's request for admission by her failure to reply thereto, the trial court should have considered the pending appeal in CA-G.R. CV No. 78971. It cannot take judicial notice solely of the proceedings in Civil Case No. MAN-2683, and ignore the appeal in CA-G.R. CV No. 78971. After all, CA-G.R. CV No. 78971 is merely a continuation of Civil Case No. MAN-2683; an appeal is deemed a continuation of the same case commenced in the lower court.⁵⁰

On the part of petitioner, it must be said that he could not have validly resorted to a motion for judgment on the pleadings or summary judgment. While it may appear that under Rules 34 and 35 of the 1997 Rules, he may file a motion for judgment on the pleadings or summary judgment as a result of the consequent admission by respondent that the subject property is conjugal, this is not actually the case. Quite the contrary, by invoking the proceedings and decision in Civil Case No. MAN-2683, petitioner is precluded from obtaining judgment while the appeal in said case is pending, because the result thereof determines whether the subject property is indeed conjugal or paraphernal. He may not preempt the appeal in CA-G.R. CV No. 78971.

While it is true that a judgment cannot bind persons who are not parties to the action,⁵¹ petitioner cannot, after invoking the proceedings in Civil Case No. MAN-2683 to secure affirmative relief against respondent and thereafter failing to obtain such relief, be allowed to repudiate or question the CA's ruling in CA-G.R. CV No. 78971. The principle of estoppel bars him from denying the resultant pronouncement by the appellate court, which became final and executory, that the subject property is respondent's paraphernal property. "In estoppel, a person, who by his deed or conduct has induced another to act in a particular manner, is barred from adopting an inconsistent position, attitude or course of conduct that thereby causes loss or injury to another. It further bars him from denying the truth of a fact which has, in the contemplation of law, become settled by the acts and proceeding of judicial or legislative officers or by the act of the party himself, either by

⁵⁰ *Guanzon v. Hon. Montesclaros*, 208 Phil. 171, 177 (1983); *Strachan & Macmurray, Ltd. v. Court of Appeals*, 159 Phil. 126, 131 (1975); *Luzon Rubber and Manufacturing Co. v. Estaris*, 152 Phil. 341, 349 (1973).

⁵¹ *Bank of Commerce v. Radio Philippines Network, Inc.*, G.R. No. 195615, April 21, 2014.

conventional writing or by representations, express or implied or *in pais*.”⁵²

Finally, the Court notes that the appellate court overlooked the May 30, 2007 Decision in CA-G.R. CV No. 78971, which became final and executory on June 23, 2007. The respondent included this development in her appellee’s brief, but the CA did not take it into account. As an unfortunate consequence, the case was not appreciated and resolved completely.


Thus, with the development in Civil Case No. MAN-2683 brought upon by the final and executory decision in CA-G.R. CV No. 78971, petitioner’s case is left with no leg to stand on. There being no conjugal property to be divided between the parties, Civil Case No. MAN-4821 must be dismissed.

WHEREFORE, the Petition is **DENIED**. The October 6, 2009 Decision and March 2, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 01783 are **AFFIRMED WITH MODIFICATION** in that Civil Case No. MAN-4821 is ordered **DISMISSED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


⁵² *Cruz v. Court of Appeals*, 354 Phil. 1036, 1054 (1998).



PRESBITERO J. VELASCO, JR.
Associate Justice



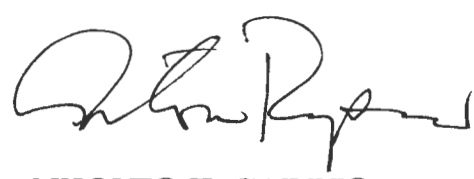
JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V. F. LEONEN
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
Acting Chief Justice

