



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

MARTIN ROBERTO G. TIROL,
 Petitioner,

G.R. No. 230103

Present:

- versus -

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 J. REYES, JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

SOL NOLASCO,
 Respondent.

Promulgated:

AUG 27 2020

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on Certiorari¹ (Petition) under Rule 45 of the Rules of Court filed by petitioner Martin Roberto G. Tirol (petitioner Martin) assailing the Decision² dated April 27, 2016 and Resolution³ dated February 23, 2017 of the Court of Appeals⁴ (CA) in CA-G.R. SP No. 133784. The CA Decision granted the petition for *certiorari* filed by respondent Sol Nolasco (respondent Sol), annulled as well as set aside the Omnibus Resolution⁵ dated June 27, 2013 and Order⁶ dated October 27, 2013 issued by the Regional Trial Court of Quezon City, Branch 218 (RTC-218), in Sp. Proc. No. Q-02-46559, and granted respondent Sol's Motion for Intervention and to admit Claim-in-Intervention (Motion for Intervention). The CA Resolution denied petitioner Martin's motion for reconsideration.

¹ *Rollo*, pp. 25-46, excluding Annexes.

² *Id.* at 49-56. Penned by Associate Justice Romeo F. Barza, with Associate Justices Danton Q. Bueser and Agnes Reyes-Carpio concurring.

³ *Id.* at 58-64. Penned by Associate Justice Romeo F. Barza, with Associate Justices Marlene Gonzales-Sison and Danton Q. Bueser concurring.

⁴ Special First Division and Special Former Special First Division.

⁵ *Rollo*, pp. 103-117. Penned by Judge Luis Zenon Q. Macaren.

⁶ Also referred to by the CA Decision as a Resolution. No copy of this Order is attached to the Petition.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

On October 10, 1991, Gloria Tirol [(Gloria) died testate]. She was survived by her husband Roberto Tirol, Sr. [(Roberto Sr.)] and their six children namely: Ruth Tirol-Jarantilla [(Ruth)], Cecilia Tirol-Javelosa [(Cecilia)], [Ma. Lourdes] Tirol [(Marilou)], Ciriaco Tirol [(Ciriaco)], Anna Maria Tirol [(Anna)] and Roberto Tirol, Jr. [(Roberto Jr.)]. On April 16, 1995, Roberto Jr. died intestate, and was survived by his four children from his marriage with Cecilia Geronimo, namely [petitioner] Martin, Zharina,⁷ Francis and Daniel. At the time of his death, Roberto Jr.'s marriage with his wife had been annulled.

On January 8, 2002, Roberto Sr. died testate and was survived by his remaining children Ruth, Cecilia, Marilou, Ciriaco and Anna and his four grandchildren from Roberto Jr.

On April 2, 2002, [petitioner] Martin, Cecilia and Ciriaco x x x filed before x x x [RTC-218] a petition to probate the wills of Gloria and Roberto Sr. x x x Ruth and [Marilou] later joined as intervenors. x x x [RTC-218] admitted to probate the respective wills of Gloria and Roberto Sr. and designated [petitioner] Martin as the Administrator of their estate[s].

On February 25, 2011, [respondent Sol] filed a [Motion for Intervention] stating that she has a legal interest in the estate of Gloria and Roberto Sr. because she is the surviving spouse of Roberto Jr. having married him on July 15, 1994. [Respondent Sol] alleged that the late Roberto Jr., being one of the children of Gloria and Roberto Sr., is entitled to at least 1/7 of the estate of his late mother and as the surviving spouse, she is entitled to that portion belonging to Roberto Jr. which is equivalent to the legitime of the legitimate children of the decedent. According to [her], she is considered a compulsory heir pursuant to Article 887 of the Civil Code and has an interest or claim in the estate of her late husband.

[Petitioner] Martin, the son of the late Roberto Jr., who was appointed as the Administrator, opposed [respondent Sol's] motion for intervention and so did [Anna, Marilou, Ruth and Cecilia]. [The oppositors] mainly argued that [respondent Sol] has no legal interest in the probate of the wills of Gloria and Roberto Sr. and could not represent Roberto Jr., not being a blood relative. [The oppositors] also refused to recognize [respondent Sol] as the legal wife of Roberto Jr.

[On March 15, 2011, respondent Sol filed a motion for intervention⁸ in the intestate settlement of Roberto Jr.'s estate proceedings ("In the Matter of the Intestate Estate of Roberto Lorca Tirol, Ma. Zharina Rita Geronimo Tirol, petitioner" docketed as Spec. Proc. No. Q-95-25497) pending before the Regional Trial Court of Quezon City, Branch 101 (RTC-101). x x x RTC-101 granted the motion to intervene filed by

⁷ Ma. Zharina Rita Geronimo Tirol in some parts of the *rollo*.

⁸ *Rollo*, pp. 118-123.

respondent Sol in its Order⁹ dated May 8, 2012. Apparently, Zharina has been appointed as Administratrix in the intestate estate of Roberto Jr.¹⁰]

On June 27, 2013, x x x [RTC-218] issued the x x x Omnibus [Resolution] denying, among others, the motion to intervene filed by [respondent Sol]. x x x [RTC-218] stated that [respondent Sol] has no legal interest in the case. [The pertinent dispositive portion of the said Omnibus Resolution states:

WHEREFORE, the court hereby resolves to:

x x x x

7) **DENY** the Motion for Intervention and to Admit Attached Claim-in-Intervention;

x x x x

SO ORDERED.¹¹

[Respondent Sol] filed a Motion for Reconsideration but was denied in the other x x x Order dated October 27, 2013.¹²

Respondent Sol filed with the CA a petition for *certiorari* questioning the Omnibus Resolution dated June 27, 2013 of RTC-218, which denied her motion for intervention, and the Order dated October 27, 2013, which denied her motion for reconsideration. Petitioner Martin filed an opposition.

Ruling of the CA

The CA, in its Decision dated April 27, 2016, found respondent Sol's *certiorari* petition to be meritorious.¹³ The CA stated that respondent Sol should be allowed to intervene because she is the widow of Roberto Jr. and has an interest or claim in her husband's estate, which consists, in part, of the latter's share in the estate of his deceased mother Gloria, and the extent or value of the share of Roberto Jr. has not yet been determined.¹⁴ The CA clarified that respondent Sol does not anchor her motion for intervention on her status as daughter-in-law but rather as an heir of Roberto Jr.¹⁵ The dispositive portion of the CA Decision states:

WHEREFORE, the petition is **GRANTED**. The assailed Resolutions dated June 27, 2013 and October 27, 2013, issued by Branch 218 of the Regional Trial Court of Quezon City, are hereby **ANNULLED** and **SET ASIDE**. Said Court is **ORDERED** to **GRANT** Petitioner's [(respondent Sol's)] Motion for Intervention and to Admit Claim-in-Intervention.

⁹ Id. at 134. Penned by Presiding Judge Evangeline C. Castillo-Marigomen.

¹⁰ See Motion for Intervention and Opposition-in-Intervention of respondent Sol in Spec. Proc. No. Q-95-25497, id. at 118-123 and 124-132.

¹¹ *Rollo*, pp. 116-117.

¹² Id. at 50-51.

¹³ Id. at 53.

¹⁴ Id. at 54.

¹⁵ Id. at 55.

SO ORDERED.¹⁶

Petitioner Martin filed a motion for reconsideration wherein he argued, among others, that the intervention sought by respondent Sol should not be granted because any interest she may allegedly have in the estate of her alleged husband, Roberto Jr., can be fully ventilated in Spec. Proc. No. Q-95-25497, which involves the judicial settlement of Roberto Jr.'s estate, and her motion for intervention therein has been granted by RTC-101.¹⁷ The CA denied petitioner Martin's motion for reconsideration in its Resolution dated February 23, 2017. The CA, however, did not traverse the said argument of petitioner Martin.

Hence the present Petition. Respondent Sol filed her Comment/Opposition¹⁸ dated June 28, 2018.

The Issues

The Petition states the following issues¹⁹ to be resolved:

1. Whether the CA erred in finding merit to respondent Sol's argument that, as widow of Roberto Jr., she is a compulsory heir of Gloria and Roberto Sr. under Article 887 of the Civil Code.
2. Whether the CA erred in failing to consider whether respondent Sol's alleged rights and interests over the estate of Roberto Jr. may be fully protected in Spec. Proc. No. Q-95-25497, which directly involves said estate.
3. Whether the CA erred in not giving due consideration that respondent Sol's intervention in Spec. Proc. No. Q-02-46559 will undo 14 years' worth of resolved incidents in said case and further delay the proceedings therein.
4. Whether the CA erred in applying *Alfelor v. Halasan*²⁰ and *Uy v. Court of Appeals*.²¹

The Court's Ruling

The Petition is meritorious.

The Court will resolve the second issue ahead of the others. A resolution by the Court that respondent Sol's right or interest, if any, in the

¹⁶ Id.

¹⁷ Id. at 59.

¹⁸ Id. at 180-192.

¹⁹ *Rollo*, pp. 30-31.

²⁰ G.R. No. 165987, March 31, 2006, 486 SCRA 451.

²¹ G.R. No. 102726, May 27, 1994, 232 SCRA 579.



estate of Roberto Jr. is fully protected in Spec. Proc. No. Q-95-25497 will render the resolution of the other issues irrelevant.

Petitioner Martin argues that respondent Sol's rights and interests, if any, can be fully protected in Spec. Proc. No. Q-95-25497 pending before RTC-101 (settlement of Roberto Jr.'s estate proceeding), which directly involves the settlement of Roberto Jr.'s intestate estate, and it is in that proceeding where she can directly litigate her claims as the alleged heir of Roberto Jr.²² Thus, her intervention in Sp. Proc. No. Q-02-46559 pending before RTC-218 (probate proceeding), which involves the wills of Gloria and Roberto Sr., is completely unnecessary and superfluous.²³

It appears that petitioner Martin has been appointed as Administrator of the testate estates of Gloria and Roberto Sr. in the probate proceeding²⁴ and Zharina has been designated as Administratrix of the intestate estate of Roberto Jr.²⁵

The CA allowed respondent Sol's intervention in the probate proceeding "because she is the widow of Roberto Jr. and, therefore, has an interest or claim in the estate of her husband[, which,] consists, in part, of the latter's share in the estate of his deceased mother, Gloria, and since the extent or value of the share of Roberto Jr. has not yet been determined, [respondent Sol] should be allowed to participate in the proceedings."²⁶

It will be recalled that Roberto Jr. died on April 16, 1995, or after his mother's death on October 10, 1991, but before his father's death on January 8, 2002.²⁷ When Gloria died, Roberto Jr. would have inherited from her as a compulsory heir by virtue of Article 887(1) of the Civil Code, which states:

ART. 887. The following are compulsory heirs:

(1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;

(2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

(3) The widow or widower;

(4) Acknowledged natural children, and natural children by legal fiction;

(5) Other illegitimate children referred to in Article 287.

x x x x (807a).

²² Id. at 36.

²³ See id.

²⁴ See Opposition to the Motion for Intervention and to Admit Attached Claim-in-Intervention, id. at 95-102.

²⁵ Supra note 10.

²⁶ Id. at 54.

²⁷ Id. at 50.

As far as respondent Sol is concerned, she would inherit from Roberto Jr. pursuant to Article 887(3) and part of his estate would be his share in the estate of her mother, Gloria. Respondent Sol could not inherit from the estate of Roberto Sr. because Roberto Jr. predeceased Roberto Sr., his father, and the children of Roberto Jr. would succeed by right of representation from their grandfather pursuant to Article 972 of the Civil Code, which provides, in part: “The right of representation takes place in the direct descending line, but never in the ascending [line].” Moreover, respondent Sol is not related by blood, but only by affinity, to Roberto Sr.

It should also be noted that the claim of respondent Sol as surviving spouse of Roberto Jr. is disputed. The validity of respondent Sol’s marriage to Roberto Jr. is in issue. In her Claim-in-Intervention, respondent Sol attached a Certificate of Marriage²⁸ between her and Roberto Jr. which was celebrated in La Castellana, Negros Occidental on July 15, 1994. On the other hand, petitioner Martin, in his Opposition to respondent Sol’s Motion for Intervention, questioned the validity of the marriage of respondent Sol to his father, Roberto Jr., on the ground that it is bigamous because of respondent Sol’s pre-existing marriage to another man, which had not been nullified before her marriage to Roberto Jr. on July 15, 1994, and as proof thereof, petitioner Martin attached a Marriage Certificate showing that on May 15, 1985 respondent Sol married a certain Raul I. Cimaglia at a civil wedding in Branch 3, Municipal Trial Court of Davao City.²⁹

Given the pendency of these two special proceedings and the presence of an issue on the validity of her claim as an heir of Roberto Jr., is the intervention of respondent Sol in the probate proceeding proper?

Section 1, Rule 19 of the Amended Rules of Civil Procedure³⁰ provides:

Section 1. *Who may intervene.* – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor’s rights may be fully protected in a separate proceeding. (1)

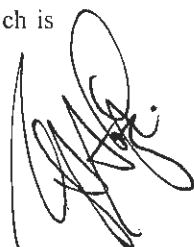
The Court in *Ongco v. Dalisay*³¹ described intervention as a remedy, as follows:

²⁸ Id. at 91.

²⁹ Id. at 100.

³⁰ A.M. No. 19-10-20-SC, 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, which is referred to as the Amended Rules of Civil Procedure, effective May 1, 2020.

³¹ G.R. No. 190810, July 18, 2012, 677 SCRA 232.



Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein for a certain purpose: to enable the third party to protect or preserve a right or interest that may be affected by those proceedings. This remedy, however, is not a right. The rules on intervention are set forth clearly in Rule 19 of the Rules of Court x x x.

x x x x

It can be readily seen that intervention is not a matter of right, but is left to the trial court's sound discretion. The trial court must not only determine if the requisite legal interest is present, but also take into consideration the delay and the consequent prejudice to the original parties that the intervention will cause. Both requirements must concur, as the first requirement on legal interest is not more important than the second requirement that no delay and prejudice should result. To help ensure that delay does not result from the granting of a motion to intervene, the Rules also explicitly say that intervention may be allowed only before rendition of judgment by the trial court.³²

Given the existence of the settlement of Roberto Jr.'s estate proceeding, the question has to be resolved in the negative.


In the settlement of a deceased's estate, Section 1, Rule 73 of the Rules of Court provides: "The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts."

Given the exclusivity of jurisdiction granted to the court first taking cognizance of the settlement of a decedent's estate, RTC-101 has the exclusive jurisdiction over the intestate estate of Roberto Jr. while RTC-218 has exclusive jurisdiction over the testate estates of Gloria and Roberto Sr. Thus, only RTC-101, the court where the settlement of Roberto Jr.'s estate proceeding is pending, has jurisdiction to determine who the heirs of Roberto Jr. are.

Section 1, Rule 90 of the Rules of Court provides when and to whom the residue of the decedent's estate is distributed, and how a controversy as to who are the lawful heirs of the decedent is resolved, to wit:

Section 1. *When order for distribution of residue made.* – When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the

³² Id. at 238-239. Emphasis and citations omitted.



court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.

No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

The court which has jurisdiction to hear and decide any controversy as to who are the lawful heirs of Roberto Jr. or as to the distributive shares to which each is entitled under the law is undoubtedly RTC-101 because it is the court which has first taken cognizance of the settlement of the intestate estate of Roberto Jr.

RTC-218, where the probate proceeding is pending, cannot rule on the issue of who are the heirs of Roberto Jr. even if the share of Roberto Jr. in the estates of Gloria and Roberto Sr. is to be determined therein. The probate court must yield to the determination by the Roberto Jr.'s estate settlement court of the latter's heirs. This is to avoid confusing and conflicting dispositions of a decedent's estate by co-equal courts.³³

As to protection and preservation of the share of Roberto Jr.'s share in the testate estates of Gloria and Roberto Sr., the same is now the look out of the administrator of his estate and it appears, as noted above, that Zharina has been designated as the Administratrix of Roberto Jr.'s estate by RTC-101. Section 2, Rule 87 of the Rules of Court provides: "For the recovery or protection of the property or rights of the deceased, an executor or administrator may bring or defend, in the right of the deceased, actions for causes which survive." Thus, the intervention of respondent Sol in the probate proceeding will be superfluous because she has an available remedy in the settlement of Roberto Jr.'s estate proceeding to question any action of the administrator therein which is detrimental to the said estate.

Since intervention is not a matter of right but depends on the sound discretion of the court, respondent Sol's intervention in the probate proceeding is unnecessary because her right or interest in the estate of Roberto Jr. can be fully protected in a separate proceeding — namely, the settlement of Roberto Jr.'s estate proceeding pending before RTC-101. The second parameter to be considered in granting of intervention under Section 1, Rule 19 — whether the intervenor's right may not be fully protected in a separate proceeding — is wanting in the instant case.

Another reason in disallowing the intervention of respondent Sol in the probate proceeding is the legal precept that an independent controversy cannot be injected into a suit by intervention, *viz.*:

³³ See *Solvio v. Court of Appeals*, G.R. No. 83484, February 12, 1990, 182 SCRA 119, 127.



x x x In general, an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies. It is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit. Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial. The remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action.³⁴

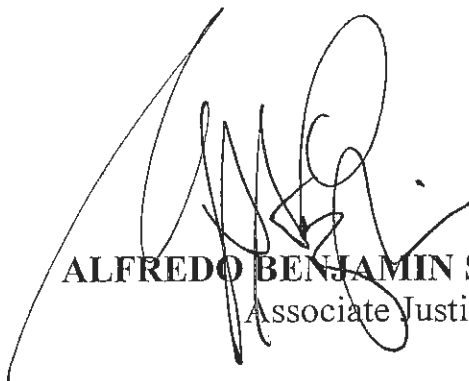
The issue as to whether respondent Sol is a lawful heir of Roberto Jr. will definitely enlarge the issues in the probate proceeding and involve determination of facts peculiar only to her, which have nothing to do with the original parties. The other heirs of Gloria and Roberto Sr. are not interested in who are the lawful heirs of Roberto Jr. The respective shares of such other heirs in the estates of Gloria and Roberto Sr. will in no way be affected by who are declared as the lawful heirs of Roberto Jr. in the proceeding for the settlement of his estate.

With this extraneous issue being injected into the probate proceeding, the first parameter that has to be considered whether to allow an intervention under Section 1, Rule 19 — no undue delay or prejudice in the adjudication of the rights of the original parties — is not met. Thus, the intervention of respondent Sol in the probate proceeding should be denied.

Given the foregoing, the resolution of the other issues becomes surplusage.


WHEREFORE, the Petition is hereby **GRANTED**. Accordingly, the Decision dated April 27, 2016 and Resolution dated February 23, 2017 of the Court of Appeals in CA-G.R. SP No. 133784 are **REVERSED** and **SET ASIDE**. The Motion for Intervention and Claim-in-Intervention of respondent Sol Nolasco in Sp. Proc. No. Q-02-46559 pending before the Regional Trial Court of Quezon City, Branch 218 are **DENIED**.

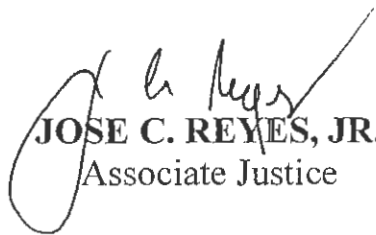
SO ORDERED.

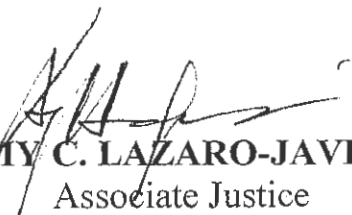

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

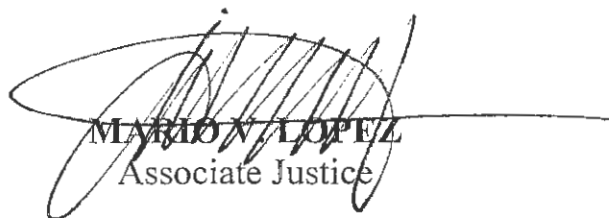
³⁴ *Mactan-Cebu International Airport Authority v. Heirs of Estanislao Miñoza*, G.R. No. 186045, February 2, 2011, 641 SCRA 520, 531-532. Citations omitted.

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

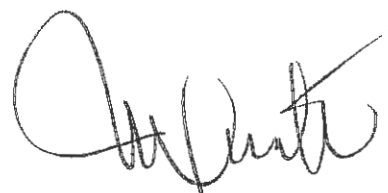

JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


MARION LOPEZ
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.


DIOSDADO M. PERALTA
Chief Justice