



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LILIA B. ADA, LUZ B. ADANZA,
FLORA C. BAYLON, REMO
BAYLON, JOSE BAYLON, ERIC
BAYLON, FLORENTINO BAYLON,
and MA. RUBY BAYLON,
Petitioners,

- versus -

FLORANTE BAYLON,
Respondent.

G.R. No. 182435

Present:

CARPIO, J.,
Chairperson,
BRION,
VILLARAMA, JR.,*
PEREZ, and
REYES, JJ.

Promulgated:

AUG 13 2012

X-----X

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision¹ dated October 26, 2007 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 01746. The assailed decision partially reversed and set aside the Decision² dated October 20, 2005 issued by the Regional Trial Court (RTC), Tanjay City, Negros Oriental, Branch 43 in Civil Case No. 11657.

* Additional member per Special Order No. 1274 dated July 30, 2012 *vice* Associate Justice Maria Lourdes P.A. Sereno.

¹ Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Pampio A. Abarintos and Francisco P. Acosta, concurring; *rollo*, pp. 17-24.

² Under the sala of Judge Winston M. Villegas; *id.* at 68-77.

The Antecedent Facts

This case involves the estate of spouses Florentino Baylon and Maximina Elnas Baylon (Spouses Baylon) who died on November 7, 1961 and May 5, 1974, respectively.³ At the time of their death, Spouses Baylon were survived by their legitimate children, namely, Rita Baylon (Rita), Victoria Baylon (Victoria), Dolores Baylon (Dolores), Panfila Gomez (Panfila), Ramon Baylon (Ramon) and herein petitioner Lilia B. Ada (Lilia).

Dolores died intestate and without issue on August 4, 1976. Victoria died on November 11, 1981 and was survived by her daughter, herein petitioner Luz B. Adanza. Ramon died intestate on July 8, 1989 and was survived by herein respondent Florante Baylon (Florante), his child from his first marriage, as well as by petitioner Flora Baylon, his second wife, and their legitimate children, namely, Ramon, Jr. and herein petitioners Remo, Jose, Eric, Florentino and Ma. Ruby, all surnamed Baylon.

On July 3, 1996, the petitioners filed with the RTC a Complaint⁴ for partition, accounting and damages against Florante, Rita and Panfila. They alleged therein that Spouses Baylon, during their lifetime, owned 43 parcels of land⁵ all situated in Negros Oriental. After the death of Spouses Baylon, they claimed that Rita took possession of the said parcels of land and appropriated for herself the income from the same. Using the income produced by the said parcels of land, Rita allegedly purchased two parcels of land, Lot No. 4709⁶ and half of Lot No. 4706,⁷ situated in Canda-uay, Dumaguete City. The petitioners averred that Rita refused to effect a partition of the said parcels of land.

³ Id. at 59.

⁴ Id. at 36-51.

⁵ Covered by Original Certificate of Title (OCT) Nos. FV-17761, FV-17763, FV-17753, FV-17775, FV-29781, FV-17757, FV-17754, FV-17776, FV-17778, FV-17760, FV-17758, FV-17762, FV-17764, FV-17766, FV-17767, FV-17769 and FV-27756 and Tax Declaration Nos. 85-11-071, 85-04-019, 85-11-013, 85-06-047, 85-06-048, 85-07-069, 88-06-109-A, 94-25-0021-A, 94-25-0020-A, 94-25-0056-A, 94-25-0057-A, 94-25-0286-A, 94-25-0285-A, 85-13-086, 85-06-007, 85-13-148, 85-09-010-A, 85-13-047, 85-09-076-A, 85-09-054-A, 93-001-10-270R, 85-09-044-A, 85-08-035, 85-08-058, 85-09-134 and 85-11-068.

⁶ Covered by Transfer Certificate of Title (TCT) No. 2775.

⁷ Covered by TCT No. 2973.

In their Answer,⁸ Florante, Rita and Panfila asserted that they and the petitioners co-owned 22⁹ out of the 43 parcels of land mentioned in the latter's complaint, whereas Rita actually owned 10 parcels of land¹⁰ out of the 43 parcels which the petitioners sought to partition, while the remaining 11 parcels of land are separately owned by Petra Cafino Adanza,¹¹ Florante,¹² Meliton Adalia,¹³ Consorcia Adanza,¹⁴ Lilia¹⁵ and Santiago Mendez.¹⁶ Further, they claimed that Lot No. 4709 and half of Lot No. 4706 were acquired by Rita using her own money. They denied that Rita appropriated solely for herself the income of the estate of Spouses Baylon, and expressed no objection to the partition of the estate of Spouses Baylon, but only with respect to the co-owned parcels of land.

During the pendency of the case, Rita, through a Deed of Donation dated July 6, 1997, conveyed Lot No. 4709 and half of Lot No. 4706 to Florante. On July 16, 2000, Rita died intestate and without any issue. Thereafter, learning of the said donation *inter vivos* in favor of Florante, the petitioners filed a Supplemental Pleading¹⁷ dated February 6, 2002, praying that the said donation in favor of the respondent be rescinded in accordance with Article 1381(4) of the Civil Code. They further alleged that Rita was already sick and very weak when the said Deed of Donation was supposedly executed and, thus, could not have validly given her consent thereto.

⁸ *Rollo*, pp. 53-55.

⁹ OCT Nos. FV-17761, FV-17763, FV-17753, FV-29781, FV-17754, FV-17760, FV-17764, FV-17767 and FV-17769 and Tax Declaration Nos. 85-11-071, 85-11-013, 85-06-047, 85-06-048, 94-25-0285-A, 85-06-007, 85-13-148, 85-09-010-A, 85-09-054-A, 93-001-10-270R, 85-09-044-A, 85-08-035 and 85-09-134.

¹⁰ OCT Nos. FV-17757, FV-17758, FV-17762, FV-17766 and FV-27756 and Tax Declaration Nos. 88-06-109-A, 94-25-0057-A, 85-13-086, 85-13-047 and 85-09-076-A.

¹¹ OCT No. FV-17778 and Tax Declaration No. 85-11-068.

¹² OCT Nos. FV-17775 and FV-17776 and Tax Declaration Nos. 85-07-069, 94-25-0056-A and 85-08-058.

¹³ Tax Declaration No. 85-04-019.

¹⁴ Tax Declaration No. 94-25-0021-A.

¹⁵ Tax Declaration No. 94-25-0020-A.

¹⁶ Tax Declaration No. 94-25-0286-A.

¹⁷ *Rollo*, pp. 57-58.

Florante and Panfila opposed the rescission of the said donation, asserting that Article 1381(4) of the Civil Code applies only when there is already a prior judicial decree on who between the contending parties actually owned the properties under litigation.¹⁸

The RTC Decision

On October 20, 2005, the RTC rendered a Decision,¹⁹ the decretal portion of which reads:

Wherefore judgment is hereby rendered:

- (1) declaring the existence of co-ownership over parcels nos. 1, 2, 3, 5, 7, 10, 13, 14, 16, 17, 18, 26, 29, 30, 33, 34, 35, 36, 40 and 41 described in the complaint;
- (2) directing that the above mentioned parcels of land be partitioned among the heirs of Florentino Baylon and Maximina Baylon;
- (3) declaring a co-ownership on the properties of Rita Baylon namely parcels no[s]. 6, 11, 12, 20, 24, 27, 31, 32, 39 and 42 and directing that it shall be partitioned among her heirs who are the plaintiffs and defendant in this case;
- (4) **declaring the donation inter vivos rescinded without prejudice to the share of Florante Baylon to the estate of Rita Baylon and directing that parcels nos. 1 and 2 paragraph V of the complaint be included in the division of the property as of Rita Baylon among her heirs, the parties in this case;**
- (5) excluding from the co-ownership parcels nos. 20, 21, 22, 9, 43, 4, 8, 19 and 37.

Considering that the parties failed to settle this case amicably and could not agree on the partition, the parties are directed to nominate a representative to act as commissioner to make the partition. He shall immediately take [his] oath of office upon [his] appointment. The commissioner shall make a report of all the proceedings as to the partition within fifteen (15) days from the completion of this partition. The parties are given ten (10) days within which to object to the report after which the Court shall act on the commissioner report.

SO ORDERED.²⁰ (Emphasis ours)

¹⁸ Id. at 20.

¹⁹ Id. at 68-77.

²⁰ Id. at 77.

The RTC held that the death of Rita during the pendency of the case, having died intestate and without any issue, had rendered the issue of ownership insofar as parcels of land which she claims as her own moot since the parties below are the heirs to her estate. Thus, the RTC regarded Rita as the owner of the said 10 parcels of land and, accordingly, directed that the same be partitioned among her heirs. Nevertheless, the RTC rescinded the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 in favor of Florante. In rescinding the said donation *inter vivos*, the RTC explained that:

However[,] with respect to lot [nos.] 4709 and 4706 which [Rita] had conveyed to Florante Baylon by way of donation inter vivos, the plaintiffs in their supplemental pleadings (sic) assailed the same to be rescissible on the ground that it was entered into by the defendant Rita Baylon without the knowledge and approval of the litigants [or] of competent judicial authority. The subject parcels of lands are involved in the case for which plaintiffs have ask[ed] the Court to partition the same among the heirs of Florentino Baylon and Maximina Elnas.

Clearly, the donation inter vivos in favor of Florante Baylon was executed to prejudice the plaintiffs['] right to succeed to the estate of Rita Baylon in case of death considering that as testified by Florante Baylon, Rita Baylon was very weak and he tried to give her vitamins x x x. The donation inter vivos executed by Rita Baylon in favor of Florante Baylon is rescissible for the reason that it refers to the parcels of land in litigation x x x without the knowledge and approval of the plaintiffs or of this Court. However[,] the rescission shall not affect the share of Florante Baylon to the estate of Rita Baylon.²¹

Florante sought reconsideration of the Decision dated October 20, 2005 of the RTC insofar as it rescinded the donation of Lot No. 4709 and half of Lot No. 4706 in his favor.²² He asserted that, at the time of Rita's death on July 16, 2000, Lot No. 4709 and half of Lot No. 4706 were no longer part of her estate as the same had already been conveyed to him through a donation *inter vivos* three years earlier. Thus, Florante maintained that Lot No. 4709 and half of Lot No. 4706 should not be included in the properties that should be partitioned among the heirs of Rita.

²¹ Id. at 76-77.

²² Id. at 78-79.

On July 28, 2006, the RTC issued an Order²³ which denied the motion for reconsideration filed by Florante.

The CA Decision

On appeal, the CA rendered a Decision²⁴ dated October 26, 2007, the dispositive portion of which reads:

WHEREFORE, the Decision dated October 20, 2005 and Order dated July 28, 2006 are **REVERSED** and **SET ASIDE** insofar as they decreed the rescission of the Deed of Donation dated July 6, 1997 and the inclusion of lot no. 4709 and half of lot no. 4706 in the estate of Rita Baylon. The case is **REMANDED** to the trial court for the determination of ownership of lot no. 4709 and half of lot no. 4706.

SO ORDERED.²⁵

The CA held that before the petitioners may file an action for rescission, they must first obtain a favorable judicial ruling that Lot No. 4709 and half of Lot No. 4706 actually belonged to the estate of Spouses Baylon and not to Rita. Until then, the CA asserted, an action for rescission is premature. Further, the CA ruled that the petitioners' action for rescission cannot be joined with their action for partition, accounting and damages through a mere supplemental pleading. Thus:

If [Lot No. 4709 and half of Lot No. 4706] belonged to the Spouses' estate, then Rita Baylon's donation thereof in favor of Florante Baylon, in excess of her undivided share therein as co-heir, is void. Surely, she could not have validly disposed of something she did not own. In such a case, an action for rescission of the donation may, therefore, prosper.

If the lots, however, are found to have belonged exclusively to Rita Baylon, during her lifetime, her donation thereof in favor of Florante Baylon is valid. For then, she merely exercised her ownership right to dispose of what legally belonged to her. Upon her death, the lots no longer form part of her estate as their ownership now pertains to Florante Baylon. On this score, an action for rescission against such donation will not prosper. x x x.

²³ Id. at 80-81.

²⁴ Id. at 17-24.

²⁵ Id. at 23.

Verily, before plaintiffs-appellees may file an action for rescission, they must first obtain a favorable judicial ruling that lot no. 4709 and half of lot no. 4706 actually belonged to the estate of Spouses Florentino and Maximina Baylon, and not to Rita Baylon during her lifetime. Until then, an action for rescission is premature. For this matter, the applicability of Article 1381, paragraph 4, of the New Civil Code must likewise await the trial court's resolution of the issue of ownership.

Be that as it may, an action for rescission should be filed by the parties concerned independent of the proceedings below. The first cannot simply be lumped up with the second through a mere supplemental pleading.²⁶ (Citation omitted)

The petitioners sought reconsideration²⁷ of the Decision dated October 26, 2007 but it was denied by the CA in its Resolution²⁸ dated March 6, 2008.

Hence, this petition.

Issue

The lone issue to be resolved by this Court is whether the CA erred in ruling that the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 in favor of Florante may only be rescinded if there is already a judicial determination that the same actually belonged to the estate of Spouses Baylon.

The Court's Ruling

The petition is partly meritorious.

Procedural Matters

Before resolving the lone substantive issue in the instant case, this Court deems it proper to address certain procedural matters that need to be

²⁶ Id. at 22-23.

²⁷ Id. at 25-28.

²⁸ Id. at 31.

threshed out which, by laxity or otherwise, were not raised by the parties herein.

Misjoinder of Causes of Action

The complaint filed by the petitioners with the RTC involves two separate, distinct and independent actions – partition and rescission. *First*, the petitioners raised the refusal of their co-heirs, Florante, Rita and Panfila, to partition the properties which they inherited from Spouses Baylon. *Second*, in their supplemental pleading, the petitioners assailed the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 made by Rita in favor of Florante *pendente lite*.

The actions of partition and rescission cannot be joined in a single action.

By a joinder of actions, or more properly, a joinder of causes of action is meant the uniting of two or more demands or rights of action in one action, the statement of more than one cause of action in a declaration. It is the union of two or more civil causes of action, each of which could be made the basis of a separate suit, in the same complaint, declaration or petition. A plaintiff may under certain circumstances join several distinct demands, controversies or rights of action in one declaration, complaint or petition.²⁹

The objectives of the rule or provision are to avoid a multiplicity of suits where the same parties and subject matter are to be dealt with by effecting in one action a complete determination of all matters in controversy and litigation between the parties involving one subject matter, and to expedite the disposition of litigation at minimum cost. The provision

²⁹ *Republic v. Hernandez*, 323 Phil. 606, 624-625 (1996).

should be construed so as to avoid such multiplicity, where possible, without prejudice to the rights of the litigants.³⁰

Nevertheless, while parties to an action may assert in one pleading, in the alternative or otherwise, as many causes of action as they may have against an opposing party, such joinder of causes of action is subject to the condition, *inter alia*, that the joinder shall not include special civil actions governed by special rules.³¹

Here, there was a misjoinder of causes of action. The action for partition filed by the petitioners could not be joined with the action for the rescission of the said donation *inter vivos* in favor of Florante. Lest it be overlooked, an action for partition is a special civil action governed by Rule 69 of the Rules of Court while an action for rescission is an ordinary civil action governed by the ordinary rules of civil procedure. The variance in the procedure in the special civil action of partition and in the ordinary civil action of rescission precludes their joinder in one complaint or their being tried in a single proceeding to avoid confusion in determining what rules shall govern the conduct of the proceedings as well as in the determination of the presence of requisite elements of each particular cause of action.³²

A misjoined cause of action, if not severed upon motion of a party or by the court *sua sponte*, may be adjudicated by the court together with the other causes of action.

Nevertheless, misjoinder of causes of action is not a ground for dismissal. Indeed, the courts have the power, acting upon the motion of a party to the case or *sua sponte*, to order the severance of the misjoined cause of action to be proceeded with separately.³³ However, if there is no

³⁰ Id. at 625.

³¹ THE RULES OF COURT, Rule 2, Section 5.

³² See Francisco, Remedial Law Compendium, Vol. 1, 9th Rev. Ed., p. 77.

³³ THE RULES OF COURT, Rule 2, Section 6.

objection to the improper joinder or the court did not *motu proprio* direct a severance, then there exists no bar in the simultaneous adjudication of all the erroneously joined causes of action. On this score, our disquisition in *Republic of the Philippines v. Herbieto*³⁴ is instructive, viz:

This Court, however, disagrees with petitioner Republic in this regard. This procedural lapse committed by the respondents should not affect the jurisdiction of the MTC to proceed with and hear their application for registration of the Subject Lots.

X X X X

Considering every application for land registration filed in strict accordance with the Property Registration Decree as a single cause of action, then the defect in the joint application for registration filed by the respondents with the MTC constitutes a misjoinder of causes of action and parties. Instead of a single or joint application for registration, respondents Jeremias and David, more appropriately, should have filed separate applications for registration of Lots No. 8422 and 8423, respectively.

Misjoinder of causes of action and parties do not involve a question of jurisdiction of the court to hear and proceed with the case. They are not even accepted grounds for dismissal thereof. Instead, under the Rules of Court, the misjoinder of causes of action and parties involve an implied admission of the court's jurisdiction. It acknowledges the power of the court, acting upon the motion of a party to the case or on its own initiative, to order the severance of the misjoined cause of action, to be proceeded with separately (in case of misjoinder of causes of action); and/or the dropping of a party and the severance of any claim against said misjoined party, also to be proceeded with separately (in case of misjoinder of parties).³⁵ (Citations omitted)

It should be emphasized that the foregoing rule only applies if the court trying the case has jurisdiction over all of the causes of action therein notwithstanding the misjoinder of the same. If the court trying the case has no jurisdiction over a misjoined cause of action, then such misjoined cause of action has to be severed from the other causes of action, and if not so severed, any adjudication rendered by the court with respect to the same would be a nullity.

³⁴ 498 Phil. 227 (2005).

³⁵ Id. at 237-239.

Here, Florante posed no objection, and neither did the RTC direct the severance of the petitioners' action for rescission from their action for partition. While this may be a patent omission on the part of the RTC, this does not constitute a ground to assail the validity and correctness of its decision. The RTC validly adjudicated the issues raised in the actions for partition and rescission filed by the petitioners.

Asserting a New Cause of Action in a Supplemental Pleading

In its Decision dated October 26, 2007, the CA pointed out that the said action for rescission should have been filed by the petitioners independently of the proceedings in the action for partition. It opined that the action for rescission could not be lumped up with the action for partition through a mere supplemental pleading.

We do not agree.

A supplemental pleading may raise a new cause of action as long as it has some relation to the original cause of action set forth in the original complaint.

Section 6, Rule 10 of the Rules of Court reads:

Sec. 6. Supplemental Pleadings. – Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) days from notice of the order admitting the supplemental pleading.

In *Young v. Spouses Sy*,³⁶ this Court had the opportunity to elucidate on the purpose of a supplemental pleading. Thus:

³⁶

534 Phil. 246 (2006).

As its very name denotes, a supplemental pleading only serves to bolster or add something to the primary pleading. A supplement exists side by side with the original. It does not replace that which it supplements. Moreover, a supplemental pleading assumes that the original pleading is to stand and that the issues joined with the original pleading remained an issue to be tried in the action. It is but a continuation of the complaint. **Its usual office is to set up new facts which justify, enlarge or change the kind of relief with respect to the same subject matter as the controversy referred to in the original complaint.**

The purpose of the supplemental pleading is to bring into the records new facts which will enlarge or change the kind of relief to which the plaintiff is entitled; hence, any supplemental facts which further develop the original right of action, or extend to vary the relief, are available by way of supplemental complaint even though they themselves constitute a right of action.³⁷ (Citations omitted and emphasis ours)

Thus, a supplemental pleading may properly allege transactions, occurrences or events which had transpired after the filing of the pleading sought to be supplemented, even if the said supplemental facts constitute another cause of action.

Admittedly, in *Leobrero v. Court of Appeals*,³⁸ we held that a supplemental pleading must be based on matters arising subsequent to the original pleading related to the claim or defense presented therein, and founded on the same cause of action. We further stressed therein that a supplemental pleading may not be used to try a new cause of action.

However, in *Planters Development Bank v. LZK Holdings and Development Corp.*,³⁹ we clarified that, while a matter stated in a supplemental complaint should have some relation to the cause of action set forth in the original pleading, the fact that the supplemental pleading technically states a new cause of action should not be a bar to its allowance but only a matter that may be considered by the court in the exercise of its

³⁷ Id. at 260.

³⁸ 252 Phil. 737 (1989).

³⁹ 496 Phil. 263 (2005).

discretion. In such cases, we stressed that a broad definition of “cause of action” should be applied.

Here, the issue as to the validity of the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 made by Rita in favor of Florante is a new cause of action that occurred after the filing of the original complaint. However, the petitioners’ prayer for the rescission of the said donation *inter vivos* in their supplemental pleading is germane to, and is in fact, intertwined with the cause of action in the partition case. Lot No. 4709 and half of Lot No. 4706 are included among the properties that were sought to be partitioned.

The petitioners’ supplemental pleading merely amplified the original cause of action, on account of the gratuitous conveyance of Lot No. 4709 and half of Lot No. 4706 after the filing of the original complaint and prayed for additional reliefs, *i.e.*, rescission. Indeed, the petitioners claim that the said lots form part of the estate of Spouses Baylon, but cannot be partitioned unless the gratuitous conveyance of the same is rescinded. Thus, the principal issue raised by the petitioners in their original complaint remained the same.

Main Issue: Propriety of Rescission

After having threshed out the procedural matters, we now proceed to adjudicate the substantial issue presented by the instant petition.

The petitioners assert that the CA erred in remanding the case to the RTC for the determination of ownership of Lot No. 4709 and half of Lot No. 4706. They maintain that the RTC aptly rescinded the said donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 pursuant to Article 1381(4) of the Civil Code.

In his Comment,⁴⁰ Florante asserts that before the petitioners may file an action for rescission, they must first obtain a favorable judicial ruling that Lot No. 4709 and half of Lot No. 4706 actually belonged to the estate of Spouses Baylon. Until then, Florante avers that an action for rescission would be premature.

The petitioners' contentions are well-taken.

The resolution of the instant dispute is fundamentally contingent upon a determination of whether the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 in favor of Florante may be rescinded pursuant to Article 1381(4) of the Civil Code on the ground that the same was made during the pendency of the action for partition with the RTC.

Rescission is a remedy to address the damage or injury caused to the contracting parties or third persons.

Rescission is a remedy granted by law to the contracting parties and even to third persons, to secure the reparation of damages caused to them by a contract, even if it should be valid, by means of the restoration of things to their condition at the moment prior to the celebration of said contract.⁴¹ It is a remedy to make ineffective a contract, validly entered into and therefore obligatory under normal conditions, by reason of external causes resulting in a pecuniary prejudice to one of the contracting parties or their creditors.⁴²

Contracts which are rescissible are valid contracts having all the essential requisites of a contract, but by reason of injury or damage caused to either of the parties therein or to third persons are considered defective and, thus, may be rescinded.

⁴⁰ Rollo, pp. 96-99.

⁴¹ Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, Vol. IV, 1991 ed., p. 570.

⁴² Caguioa, Comments and Cases on Civil Law, Vol. IV, 1968 ed., pp. 443-444.

The kinds of rescissible contracts, according to the reason for their susceptibility to rescission, are the following: *first*, those which are rescissible because of lesion or prejudice;⁴³ *second*, those which are rescissible on account of fraud or bad faith;⁴⁴ and *third*, those which, by special provisions of law,⁴⁵ are susceptible to rescission.⁴⁶

**Contracts which refer to things
subject of litigation is rescissible
pursuant to Article 1381(4) of the
Civil Code.**

Contracts which are rescissible due to fraud or bad faith include those which involve things under litigation, if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority. Thus, Article 1381(4) of the Civil Code provides:

Art. 1381. The following contracts are rescissible:

x x x x

(4) Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority[.]

The rescission of a contract under Article 1381(4) of the Civil Code only requires the concurrence of the following: *first*, the defendant, during the pendency of the case, enters into a contract which refers to the thing subject of litigation; and *second*, the said contract was entered into without the knowledge and approval of the litigants or of a competent judicial authority. As long as the foregoing requisites concur, it becomes the duty of the court to order the rescission of the said contract.

⁴³ See CIVIL CODE OF THE PHILIPPINES, Articles 1381(1) and (2) and 1098.

⁴⁴ See CIVIL CODE OF THE PHILIPPINES, Articles 1381(3) and (4) and 1382.

⁴⁵ See CIVIL CODE OF THE PHILIPPINES, Articles 1189, 1191, 1526, 1534, 1538, 1539, 1542, 1556, 1560, 1567 and 1659.

⁴⁶ Supra note 42, at 446; Reyes and Puno, An Outline of Philippine Civil Law, Vol. IV, 1957 ed., pp. 233-235.

The reason for this is simple. Article 1381(4) seeks to remedy the presence of bad faith among the parties to a case and/or any fraudulent act which they may commit with respect to the thing subject of litigation.

When a thing is the subject of a judicial controversy, it should ultimately be bound by whatever disposition the court shall render. The parties to the case are therefore expected, in deference to the court's exercise of jurisdiction over the case, to refrain from doing acts which would dissipate or debase the thing subject of the litigation or otherwise render the impending decision therein ineffectual.

There is, then, a restriction on the disposition by the parties of the thing that is the subject of the litigation. Article 1381(4) of the Civil Code requires that any contract entered into by a defendant in a case which refers to things under litigation should be with the knowledge and approval of the litigants or of a competent judicial authority.

Further, any disposition of the thing subject of litigation or any act which tends to render inutile the court's impending disposition in such case, *sans* the knowledge and approval of the litigants or of the court, is unmistakably and irrefutably indicative of bad faith. Such acts undermine the authority of the court to lay down the respective rights of the parties in a case relative to the thing subject of litigation and bind them to such determination.

It should be stressed, though, that the defendant in such a case is not absolutely proscribed from entering into a contract which refer to things under litigation. If, for instance, a defendant enters into a contract which conveys the thing under litigation during the pendency of the case, the conveyance would be valid, there being no definite disposition yet coming from the court with respect to the thing subject of litigation. After all,

notwithstanding that the subject thereof is a thing under litigation, such conveyance is but merely an exercise of ownership.

This is true even if the defendant effected the conveyance without the knowledge and approval of the litigants or of a competent judicial authority. The absence of such knowledge or approval would not precipitate the invalidity of an otherwise valid contract. Nevertheless, such contract, though considered valid, may be rescinded at the instance of the other litigants pursuant to Article 1381(4) of the Civil Code.

Here, contrary to the CA's disposition, the RTC aptly ordered the rescission of the donation *inter vivos* of Lot No. 4709 and half of Lot No. 4706 in favor of Florante. The petitioners had sufficiently established the presence of the requisites for the rescission of a contract pursuant to Article 1381(4) of the Civil Code. It is undisputed that, at the time they were gratuitously conveyed by Rita, Lot No. 4709 and half of Lot No. 4706 are among the properties that were the subject of the partition case then pending with the RTC. It is also undisputed that Rita, then one of the defendants in the partition case with the RTC, did not inform nor sought the approval from the petitioners or of the RTC with regard to the donation *inter vivos* of the said parcels of land to Florante.

Although the gratuitous conveyance of the said parcels of land in favor of Florante was valid, the donation *inter vivos* of the same being merely an exercise of ownership, Rita's failure to inform and seek the approval of the petitioners or the RTC regarding the conveyance gave the petitioners the right to have the said donation rescinded pursuant to Article 1381(4) of the Civil Code.

Rescission under Article 1381(4) of the Civil Code is not preconditioned upon the judicial determination as to the ownership of the thing subject of litigation.

In this regard, we also find the assertion that rescission may only be had after the RTC had finally determined that the parcels of land belonged to the estate of Spouses Baylon intrinsically amiss. The petitioners' right to institute the action for rescission pursuant to Article 1381(4) of the Civil Code is not preconditioned upon the RTC's determination as to the ownership of the said parcels of land.

It bears stressing that the right to ask for the rescission of a contract under Article 1381(4) of the Civil Code is not contingent upon the final determination of the ownership of the thing subject of litigation. The primordial purpose of Article 1381(4) of the Civil Code is to secure the possible effectivity of the impending judgment by a court with respect to the thing subject of litigation. It seeks to protect the binding effect of a court's impending adjudication *vis-à-vis* the thing subject of litigation regardless of which among the contending claims therein would subsequently be upheld. Accordingly, a definitive judicial determination with respect to the thing subject of litigation is not a condition *sine qua non* before the rescissory action contemplated under Article 1381(4) of the Civil Code may be instituted.

Moreover, conceding that the right to bring the rescissory action pursuant to Article 1381(4) of the Civil Code is preconditioned upon a judicial determination with regard to the thing subject litigation, this would only bring about the very predicament that the said provision of law seeks to obviate. Assuming *arguendo* that a rescissory action under Article 1381(4) of the Civil Code could only be instituted after the dispute with respect to the thing subject of litigation is judicially determined, there is the possibility that the same may have already been conveyed to third persons acting in good faith, rendering any judicial determination with regard to the thing subject of litigation illusory. Surely, this paradoxical eventuality is not what the law had envisioned.

Even if the donation *inter vivos* is validly rescinded, a determination as to the ownership of the subject parcels of land is still necessary.

Having established that the RTC had aptly ordered the rescission of the said donation *inter vivos* in favor of Florante, the issue that has to be resolved by this Court is whether there is still a need to determine the ownership of Lot No. 4709 and half of Lot No. 4706.

In opting not to make a determination as to the ownership of Lot No. 4709 and half of Lot No. 4706, the RTC reasoned that the parties in the proceedings before it constitute not only the surviving heirs of Spouses Baylon but the surviving heirs of Rita as well. As intimated earlier, Rita died intestate during the pendency of the proceedings with the RTC without any issue, leaving the parties in the proceedings before the RTC as her surviving heirs. Thus, the RTC insinuated, a definitive determination as to the ownership of the said parcels of land is unnecessary since, in any case, the said parcels of land would ultimately be adjudicated to the parties in the proceedings before it.

We do not agree.

Admittedly, whoever may be adjudicated as the owner of Lot No. 4709 and half of Lot No. 4706, be it Rita or Spouses Baylon, the same would ultimately be transmitted to the parties in the proceedings before the RTC as they are the only surviving heirs of both Spouses Baylon and Rita. However, the RTC failed to realize that a definitive adjudication as to the ownership of Lot No. 4709 and half of Lot No. 4706 is essential in this case as it affects the authority of the RTC to direct the partition of the said parcels of land. Simply put, the RTC cannot properly direct the partition of Lot No.

4709 and half of Lot No. 4706 until and unless it determines that the said parcels of land indeed form part of the estate of Spouses Baylon.

It should be stressed that the partition proceedings before the RTC only covers the properties co-owned by the parties therein in their respective capacity as the surviving heirs of Spouses Baylon. Hence, the authority of the RTC to issue an order of partition in the proceedings before it only affects those properties which actually belonged to the estate of Spouses Baylon.


In this regard, if Lot No. 4709 and half of Lot No. 4706, as unwaveringly claimed by Florante, are indeed exclusively owned by Rita, then the said parcels of land may not be partitioned simultaneously with the other properties subject of the partition case before the RTC. In such case, although the parties in the case before the RTC are still co-owners of the said parcels of land, the RTC would not have the authority to direct the partition of the said parcels of land as the proceedings before it is only concerned with the estate of Spouses Baylon.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **PARTIALLY GRANTED**. The Decision dated October 26, 2007 issued by the Court of Appeals in CA-G.R. CV No. 01746 is **MODIFIED** in that the Decision dated October 20, 2005 issued by the Regional Trial Court, Tanjay City, Negros Oriental, Branch 43 in Civil Case No. 11657, insofar as it decreed the rescission of the Deed of Donation dated July 6, 1997 is hereby **REINSTATED**. The case is **REMANDED** to the trial court for the determination of the ownership of Lot No. 4709 and half of Lot No. 4706 in accordance with this Decision.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division



ARTURO D. BRION
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


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