



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SEVERINO A. YU, RAMON A. YU, and LORENZO A. YU,
Petitioners,

G.R. No. 225752

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

DAVID MIRANDA, MORNING STAR HOMES CHRISTIAN ASSOCIATION – SAN JOSE BIÑAN – HOMEOWNERS ASSOCIATION, INC., TIMMY RICHARD T. GABRIEL, and LILIBETH GABRIEL,
Respondents.

Promulgated:

27 MAR 2019
[Signature]

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DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court filed by petitioners Severino A. Yu (Severino), Ramon A. Yu (Ramon) and Lorenzo A. Yu (Lorenzo) (collectively the petitioners Yu), assailing the Decision² dated April 22, 2016 (assailed Decision) and Resolution³ dated July 13, 2016 (assailed Resolution) of the Court of Appeals, Special Fifth Division (CA) in CA-G.R. SP. No. 132394.

¹ *Rollo*, pp. 10-54.
² *Id.* at 56-65; penned by Associate Justice Stephen C. Cruz, with Associate Justices Elihu A. Ybañez and Ramon Paul L. Hernando (now a Member of this Court) concurring.
³ *Id.* at 67-68.

[Signature]

The Facts and Antecedent Proceedings

As culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

The instant case arose from an action for Sum of Money with Prayer for Issuance of Preliminary Attachment (Complaint)⁴ filed on March 8, 2012 by respondent David Miranda (respondent Miranda) against respondents Morning Star Homes Christian Association (respondent Morning Star), Timmy Richard T. Gabriel (Timmy) and Lilibeth Gabriel (Lilibeth) before the Regional Trial Court of Biñan City, Laguna, Branch 24 (RTC). The case was docketed as Civil Case No. B-8623, titled *David Miranda v. Miranda Morning Star Homes Christian Association, Timmy Richard T. Gabriel and Lilibeth Gabriel*.

In the Complaint, respondent Miranda alleged that respondent Morning Star sought to establish a housing project to be financed by the Home Development Mutual Fund (HDMF) or Pag-IBIG through the Group Land Acquisition and Development (GLAD) Financing Program. Respondent Miranda entered into a contract with respondent Morning Star for the supply and financing of the backfilling material for the latter's housing project. Upon the delivery of the filling material, respondent Morning Star issued checks to respondent Miranda with "[t]he principal amount of x x x ₱1,285,667.60 with agreed interests of 5% per month at ₱2,814,341.70."⁵ However, it was alleged that respondent Morning Star defaulted on its obligation to pay respondent Miranda, with the total amount of unpaid obligation of respondent Morning Star ballooning to ₱4,100,009.30. Respondent Miranda also prayed for the issuance of preliminary attachment over 1.56 hectares of land registered under the name of respondent Morning Star located in Calamba Laguna, covered by Transfer Certificate of Title (TCT) Nos. T-788493 to T-788751.

On March 12, 2012, the RTC issued an Order⁶ granting respondent Miranda's prayer for preliminary attachment. Consequently, a Writ of Preliminary Attachment⁷ was issued. As evidenced by the Notice of Attachment⁸ issued by the Sheriff of the RTC, the properties covered by TCT Nos. T-788493 to T-788751 (subject properties), which are registered in the name of respondent Morning Star, were attached to secure the outcome of the trial and to answer for the pecuniary liability of respondent Morning Star to respondent Miranda.

Sometime in March 2013, the petitioners Yu became aware of Civil Case No. B-8623. On April 29, 2013, they filed their Motion for Leave to Intervene,⁹ claiming that they have legal interest in the properties subject of the preliminary attachment. The petitioners Yu claimed that while the subject

⁴ Id. at 110-117.

⁵ Id. at 112.

⁶ Id. at 118-121. Issued by Presiding Judge Marino E. Rubia.

⁷ Id. at 122-123.

⁸ Id. at 124-139. Document labeled as "Notice of Attachment Upon Realty."

⁹ Id. at 140-151.



properties were registered in the name of respondent Morning Star, the latter is a mere nominal owner of the subject properties since they were the real owners; and that they had transferred the titles covering the subject properties to respondent Morning Star only to facilitate the latter's loan with HDMF under the GLAD program. The petitioners Yu further averred that the Deed of Absolute Sale which they executed in favor of respondent Morning Star was null and void *ab initio* for lack of consideration.

On May 19, 2013, the RTC, through public respondent Presiding Judge Marino E. Rubia (Rubia), rendered its Decision¹⁰ granting the respondent Miranda's Complaint. The said Decision eventually became final and executory.

Thereafter, in an Order¹¹ dated July 29, 2013, the RTC denied the petitioners Yu's Motion for Leave to Intervene, stating that they are not the registered owners of the properties, and that their rights may be protected in a separate proceeding.

On October 25, 2013, the petitioners Yu filed a Rule 65 Petition for *Certiorari* (Rule 65 Petition)¹² before the CA. The Rule 65 Petition was docketed as CA-G.R. SP No. 132394.

On December 23, 2013, respondent Miranda filed his Comment¹³ on the Petition for *Certiorari* before the CA, alleging that the petitioners Yu did not file a motion for reconsideration of the RTC's Order dated July 29, 2013, and that the petitioners Yu had already filed before the RTC a complaint for nullification of the Deed of Sale, docketed as Civil Case No. B-9126. Thus, according to respondent Miranda, the petitioners Yu would be able to pursue their claims in that proceeding instead. On January 13, 2014, the petitioners Yu filed their Reply to Respondent's Comment.¹⁴

On June 14, 2014, the petitioners Yu filed an Urgent Motion for Issuance of Temporary Restraining Order (TRO) and Preliminary Injunction before the CA to prohibit the RTC from implementing/executing its Decision dated May 19, 2013 in Civil Case No. B-8623. On June 18, 2014, the CA granted the petitioners Yu's prayer for TRO. Thereafter, the petitioners Yu verified the status of Civil Case No. B-8623 with the RTC. It was only then that the petitioners Yu discovered that the RTC had already rendered the Decision dated May 19, 2013. Hence, the petitioners Yu filed a Supplemental Motion dated June 16, 2014 to enjoin the implementation of the RTC's Decision dated May 19, 2013. On July 21, 2014, the CA issued a Resolution granting the petitioners Yu's prayer for the issuance of a preliminary injunction.

¹⁰ Id. at 293-303.

¹¹ Id. at 105.

¹² Id. at 71-104.

¹³ Id. at 233-243. Document labeled as "Comment with Motion to Admit."

¹⁴ Id. at 273-283.



The Ruling of the CA

In the assailed Decision, the CA dismissed the petitioners Yu's Rule 65 Petition.

Even as the CA expressed its view that the RTC should have allowed the petitioners Yu to intervene because the latter are claiming they are the real owners of the properties subject of a writ of preliminary attachment. Without a doubt, if their allegations were later proven to be valid claims, the petitioners Yu would surely have a legal interest in the matter in litigation. To the mind of the CA, if the petitioners Yu would not be allowed to intervene, the proceedings would become more unnecessarily complicated, expensive and interminable since it might turn out that the properties attached do not belong to respondent Morning Star,¹⁵ it nevertheless denied the Rule 65 Petition because the issue has already been rendered **moot and academic** in view of the fact that the Decision dated May 19, 2013 of the RTC already became **final and executory**, viz.:

In view of the final and executory Decision dated May 19, 2013 of the RTC in Civil Case No. B-8623, the present petition is now moot and academic. It must be stressed that once a judgment is issued by the court in a case, and that judgment becomes final and executory, the principle of immutability of judgments automatically operates to bar any modification of the judgment. The modification of a judgment requires the exercise of the court's discretion. At that stage, when the judgment has become final and executory, the court is barred from exercising discretion on the case; the bar exists even if the modification is only meant to correct an erroneous conclusion of fact or law as these are discretionary acts that rest outside of the court's purely ministerial jurisdiction.¹⁶

Owing to the status of the RTC's Decision dated May 19, 2013 as final and executory, the CA clarified that its discussion on the Motion for Leave to Intervene of the petitioners Yu was only "to indulge in purely academic discussion."¹⁷

The petitioners Yu filed their Motion for Partial Reconsideration on May 17, 2016, which was denied by the CA in the assailed Resolution.

Hence, the instant appeal.

Respondent Miranda filed his Comment with Manifestation¹⁸ on February 6, 2017. In response, the petitioners Yu filed their Reply to Comment¹⁹ on March 14, 2017. On their part, respondents Timmy and Lilibeth filed their Comment²⁰ on July 7, 2017. The petitioners Yu responded by filing their Reply²¹ on March 14, 2018.

¹⁵ Id. at 62.

¹⁶ Id. at 59.

¹⁷ Id.

¹⁸ Id. at 439-447.

¹⁹ Id. at 448-461.

²⁰ Id. at 465-467.

²¹ Id. at 470-478.

Issue

The arguments raised by the petitioners Yu in the instant Petition can be encapsulated in this singular issue — whether the petitioners Yu may still be allowed to intervene in Civil Case No. B-8623 despite the unassailable fact that the said case has already been decided upon with finality.

The Court's Ruling

The instant appeal is unmeritorious.

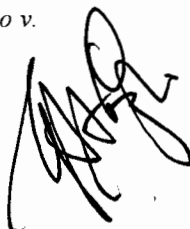
The instant Petition centers on the RTC's Order dated July 29, 2013. The petitioners Yu maintain that the CA erred when it failed to render a judgment setting aside the said Order, which denied the petitioners Yu's Motion for Leave to Intervene in Civil Case No. B-8623, and failed to allow the latter to intervene and participate in the said case. In addition, the petitioners Yu also allege that the CA was mistaken in not nullifying and setting aside the Decision that was rendered by the RTC during the pendency of their Rule 65 Petition.

Foremost, it is not disputed by any party that Civil Case No. B-8623 has already been decided with finality; the RTC's Decision dated May 19, 2013 is already final and executory. The case where the petitioners Yu seek to intervene in has already ceased. Jurisprudence has made it clear that **“[i]ntervention can no longer be allowed in a case already terminated by final judgment.”**²²

Further, it must be noted that Civil Case No. B-8623 is centered on the recovery of sum of money pursued by respondent Miranda against respondents Morning Star, Timmy, and Lilibeth on the basis of the latter's obligation to pay the former for the supply and financing of the backfilling materials provided by respondent Miranda for the respondents' housing project. The petitioners Yu have no participation whatsoever in the transaction entered into by the respondents Morning Star, Timmy, and Lilibeth with respondent Miranda. The said case does not concern itself with the question of ownership over the subject properties.

The only involvement of the petitioners Yu in Civil Case No. B-8623 is their claim over the subject properties registered in the name of respondent Morning Star, which were subjected to preliminary attachment to secure the judgment debt. The only purpose of the petitioners Yu's attempt to intervene is to question the inclusion of the subject properties in the coverage of the preliminary attachment imposed by the RTC. It is apparent that the involvement of the petitioners Yu in the instant case is incidental to the cause of action subject of Civil Case No. B-8623, *i.e.*, recovery of sum of money based on an obligation to pay. The issue on the ownership of the subject

²² *Chavez v. Presidential Commission on Good Government*, 366 Phil. 863, 867 (1999), citing *Rabino v. Cruz*, 294 Phil. 480 (1993). (Emphasis supplied)



properties and the propriety of their inclusion in the preliminary attachment is not determinative whatsoever as to whether respondent Miranda has a cause of action for recovery of money against respondents Morning Star, Timmy, and Lilibeth. In other words, the petitioners Yu are not parties in interest without whom no final determination of the recovery of sum of money case can be had – they are not indispensable parties.²³

At most, the petitioners Yu may only be considered necessary parties as they are not indispensable, but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action.²⁴ It must be stressed that **the non-inclusion of necessary parties does not prevent the court from proceeding in the action**, and the judgment rendered therein shall be without prejudice to the rights of such necessary party.²⁵

In fact, under the Rules of Court, the filing of a motion for intervention was not even absolutely necessary and indispensable for the petitioners Yu to question the inclusion of the subject properties in the coverage of the Writ of Preliminary Attachment.

Under Rule 57, Section 14 of the Rules of Court, if the property attached is claimed by any third person, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds of such right or title, and serves such affidavit upon the sheriff while the latter has possession of the attached property, and a copy thereof upon the attaching party, the sheriff shall not be bound to keep the property under attachment, unless the attaching party or his agent, on demand of the sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied upon. No such affidavit was filed by the petitioners Yu.

Moreover, jurisprudence has held that a writ of preliminary attachment is only a provisional remedy issued upon order of the court where an action is pending; it is an ancillary remedy. **Attachment is only adjunct to the main suit. Therefore, it can have no independent existence apart from a suit on a claim of the plaintiff against the defendant.** In other words, an attachment or garnishment is generally ancillary to, and dependent on, a principal proceeding, either at law or in equity, which has for its purpose a determination of the justice of a creditor's demand. **Any relief against such attachment could be disposed of only in that case.**²⁶

Hence, with the cessation of Civil Case No. B-8623, with the RTC's Decision having attained the status of finality, the attachment sought to be questioned by the petitioners Yu has legally ceased to exist.

²³ RULES OF COURT, Rule 3, Sec. 7.

²⁴ Id. at Sec. 8.

²⁵ Id. at Sec. 9.

²⁶ *Adlawan v. Tomol*, 262 Phil. 893, 904-905 (1990).



The petitioners Yu maintain that the Court has at times allowed the intervention of parties even if judgment has been rendered and the Decision has attained finality, citing the case of *Navarro v. Ermita*.²⁷ The invocation of the said case is grossly misplaced, considering that in the cited case, the primordial consideration was the grave violation of the Constitution involved therein. It goes without saying that the instant case does not involve such an issue.

The petitioners Yu bemoan that there is supposedly no other remedy available on their part to protect their interests over the subject properties. Such supposition is incorrect. As already explained above, under Rule 3, Section 9 of the Rules of Court, while the non-inclusion of necessary parties does not prevent the court from proceeding in the action, **the judgment rendered therein shall be without prejudice to the rights of such necessary party.** It is elementary that **a judgment cannot bind persons who are not parties to the action.**²⁸

To once more, Civil Case No. B-8623 did not deal whatsoever as to who has the right of ownership over the subject properties. The said case only concerned itself with the action for recovery of sum of money instituted by respondent Medina against respondents Morning Star, Timmy, and Lilibeth. Hence, any action by the petitioners Yu questioning the registration of the TCTs in the name of respondent Morning Star in another proceeding will not interfere nor intrude whatsoever with the RTC's final and executory Decision in Civil Case No. B-8623.

In fact, the petitioners Yu themselves acknowledged that **they are already pursuing another remedy to recover the subject properties from respondent Morning Star when it filed Civil Case No. B-9126 before Branch 25 of the RTC.**²⁹ The petitioners Yu readily admit that in Civil Case No. B-9126, which is currently pending before Branch 25 of the RTC, they filed an action for specific performance or rescission of contract to sell, annulment of deed of sale, cancellation of titles, reconveyance and damages against respondents Morning Star, Lilibeth, and Timmy precisely to gain ownership over the subject properties, which is the exact same reason that impelled the petitioners Yu to intervene in Civil Case No. B-8623.

In the eventuality that the petitioners Yu's action in Civil Case No. B-9126 will prosper, consequently, the subject properties would not be levied in favor of respondent Miranda in satisfaction of the final and executory Decision in Civil Case No. B-8623 and would necessarily be awarded to the petitioners Yu. As held in the recently decided case of *Miranda v. Sps. Mallari, et al.*,³⁰ "[i]f the judgment obligor no longer has any right, title or interest in the property levied upon, then there can be no lien that may be

²⁷ 626 Phil. 23 (2010).

²⁸ *Rabino v. Cruz*, 294 Phil. 480, 486 (1993).

²⁹ *Rollo*, p. 451.

³⁰ G.R. No. 218343, November 28, 2018.

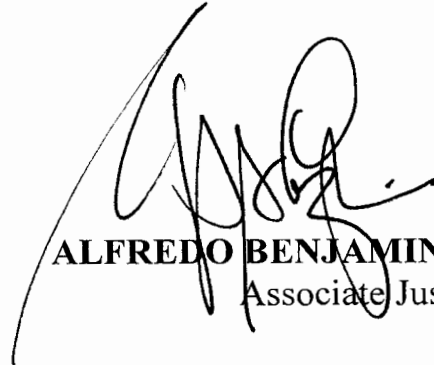


created in favor of the judgment obligee by reason of the levy.”³¹ Hence, it cannot be said that there is no remedy available on the part of the petitioners Yu.

For the foregoing reasons, the instant Petition is denied for lack of merit.


WHEREFORE, the instant appeal is hereby **DENIED**. The Decision dated April 22, 2016 and Resolution dated July 13, 2016 of the Court of Appeals, Special Fifth Division in CA-G.R. SP. No. 132394 are **AFFIRMED**.

SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

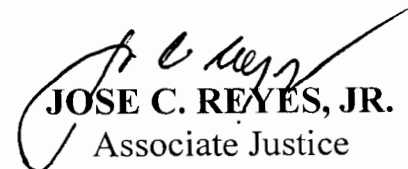
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



JOSE C. REYES, JR.
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice

³¹ Id. at 12.

ATTESTATION

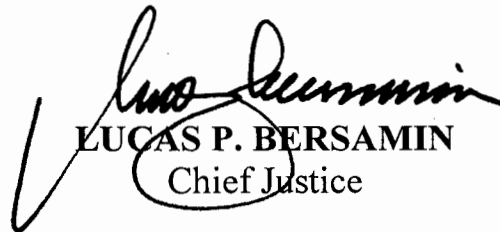
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

