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FIRST DIVISION

[G.R. No. 122656. September 5, 1997]

SYLVIA S. TY, in her capacity as Administratrix of the Intestate Estate of ALEXANDER T. TY, *petitioner, vs.* **COURT OF APPEALS and ALEJANDRO B. TY,** *respondents.*

SYNOPSIS

Respondent Alejandro Ty instituted an action on December 16, 1992 before the Regional Trial Court of Pasig against his daughter-in-law, petitioner Sylvia Ty, for the recovery of certain properties allegedly owned by him. Respondent claimed that the properties were only placed in the name of his son, Alexander T. Ty, husband of petitioner, without any consideration, thus creating an implied trust in favor of the latter. Respondent attached the income tax returns of his son from 1980 to 1984 to show that his son did not have the financial capacity to acquire the questioned properties. Petitioner moved to strike out the returns as violative of the rule on confidentiality and the constitutional right to privacy of communication and correspondence. The trial court denied the motion including the motion for reconsideration. On appeal, respondent Court of Appeals affirmed the questioned orders of the trial court. Petitioner then filed before the Court the instant petition alleging that respondent's disclosure of the income tax returns of his son constitutes a violation of Section 3, paragraphs 1 and 2, Article III of the Constitution, as well as Revenue Regulation No. 33 and Section 277 of the National Internal Revenue Code.

The Supreme Court ruled that respondent Court of Appeals acted correctly in affirming the questioned orders. The Court sustains the orders of the lower court because the motion was prematurely filed. In the instant case, respondent has not yet offered his evidence, thus it follows that the opportunity to object had not yet come. Accordingly, the petition is denied.

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SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; OFFER OF EVIDENCE; WHEN TO MAKE AN OFFER AND OBJECT THERETO.—** Documentary and object evidence are offered after the presentation of a party's testimonial evidence; such offer is done orally unless allowed by the court to be done in writing. An objection to evidence offered orally must be made immediately after the offer is made. An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

2. **ID.; ID.; ID.; DOCUMENTS NOT FORMALLY OFFERED CANNOT BE CONSIDERED EVIDENCE NOR CAN THEY BE GIVEN EVIDENTIARY VALUE, HENCE, CANNOT BE SUBJECTED TO AN OBLIGATION; CASE AT BENCH.—** We likewise sustain the court *a quo* although based on a different ground, i.e., premature filing of the motion. Our rules of procedure are explicit. During the trial on the merits, evidence must be formally offered by the parties otherwise the trial court will not consider it. x x x In the instant case, respondent Alejandro has not offered his evidence and, understandably so, because the proceedings were still at the pre-trial stage. It follows that the opportunity to object to the income tax returns had not yet come. At the trial on the merits, respondent Alejandro may decide to formally offer the returns if he believes they will advance his cause. Petitioner may then object. Or, respondent Alejandro may decide not to offer them at all. In the latter event, such documents cannot be considered evidence nor can they be given any evidentiary value, in which case, there can be no occasion for petitioner to interpose an objection. The rationale of the rule is that it is the duty of the judge to rest his findings of facts and judgment only and strictly upon the evidence offered by the parties at the trial.

APPEARANCES OF COUNSEL

Ongkiko, Kalaw, Manhit, Acorda, Panga & Velasco Law Offices for petitioner.

Angara, Abello, Concepcion, Regala & Cruz for private respondent.

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DECISION

BELLOSILLO, *J.*:

ALEJANDRO B. TY, respondent, instituted on 16 December 1992 an action before the Regional Trial Court of Pasig against his daughter-in-law, petitioner Sylvia S. Ty, for recovery of certain properties allegedly owned by him. He claimed that the properties were only placed in the name of his son Alexander T. Ty, husband of petitioner, without any consideration, or were only acquired by Alexander through the money of his father Alejandro thereby creating an implied trust in favor of the latter. Yet petitioner included them in the proceedings concerning the settlement of the estate of Alexander T. Ty pending in the RTC-Br. 105, Quezon City. Subsequently, she filed therein a motion to sell and/or mortgage the properties in order to raise money for estate taxes. Thus respondent prayed that petitioner be enjoined from selling, mortgaging or otherwise disposing of the properties in question before final judgment.

On 26 February 1993 the trial court granted the prayer of respondent herein and held that -

> x x x the *status quo* must be preserved and maintained, i.e., the subject propert(ies) must not be sold, mortgaged or disposed of, pending final determination of the main issue raised regarding the ownership of the subject properties, otherwise, plaintiff would probably suffer an injustice and whatever judgment that will be rendered would be ineffectual.[1]

On 11 June 1993 the motion to reconsider the above order was denied.

Thereafter, respondent Alejandro, in reply to petitioner's amended answer, attached the income tax returns of his son Alexander from 1980 to 1984 to show that he did not have the financial capacity to acquire the properties. But petitioner moved to strike out the returns as violative of the rule on confidentiality

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[1] Order issued by Judge Jesus G. Bersamira, RTC-Br. 166; CA *Rollo*, pp. 53-54.

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and the constitutional right to privacy of communication and correspondence. On 8 February 1994 the motion was denied since the trial court did not find any factual and/or legal justification. The court however did not elaborate thereon.[2] On 27 April 1994 reconsideration of the order was denied.

In the meantime, Angelina Piguing-Ty sought to intervene in the case. She claimed to be the legal wife of respondent Alejandro B. Ty and as such has an interest in the properties which are all allegedly acquired during the subsistence of their marriage. In the Order of 27 April 1994 intervention was allowed.

On 10 February 1995 respondent Court of Appeals affirmed the aforementioned orders of the trial court except as regards that which granted the intervention. Respondent court was of the view that the pendency of the action for separation of property between Angelina Piguing-Ty and respondent Alejandro B. Ty[3] effectively barred her intervention.[4] On 5 October 1995 reconsideration was denied.

Petitioner confines the issue as to whether respondent Alejandro's disclosure of the income tax returns of his son Alexander constitutes a violation of Sec. 3, pars. (1) and (2), Art. III, of the Constitution,[5] as well as Revenue Regulation No. 33[6] and Sec. 277 of the National Internal Revenue Code (NIRC)[7] when he attached the income tax returns of Alexander to his reply and pre-trial brief.

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[2] *Id.*, p. 56.

[3] Before the RTC-Br. 89, Quezon City.

[4] Decision penned by Justice Ruben T. Reyes, concurred in by Justices Oscar M. Herrera and Angelina Sandoval Gutierrez, *Rollo*, pp. 49-50.

[5] Sec. 3. *(1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.*

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

[6] Re *Inspection of Income Tax Returns.*

[7] x x x *any person who publishes or prints in any manner whatever, not provided by law, any income, profits, losses, or expenditures appearing in any income tax return, shall be fined in a sum of not more than two*

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Respondent Alejandro B. Ty contends that the right to privacy of communication and correspondence regulates only the relationship between individuals and the State hence it cannot be invoked against private individuals. Moreover, the act, utterance or document protected must constitute part of an exchange of ideas, thoughts or opinions, so that, clearly, these terms do not contemplate an income tax return. Alejandro likewise contends that Revenue Regulation No. 33 is not applicable because he never went to the Bureau of Internal Revenue to examine or obtain copies of the returns as in fact he already had them in his possession as payer of the taxes of Alexander; neither is Sec. 277 of the NIRC applicable since it merely imposes liability on one who prints or publishes certain information appearing in an income tax return. Most importantly, according to respondent, the objection to the admissibility of the returns is premature because they have not even been offered in evidence.

Respondent appellate court, in sustaining the order of the trial court denying petitioner's motion to strike out the income tax returns, explained that all the legal provisions invoked by petitioner were inapplicable because respondent Alejandro appeared to have been in possession of the duplicate original copies thereof and there was no adequate proof that he obtained them illegally.

We likewise sustain the court *a quo* although based on a different ground, i.e., premature filing of the motion. Our rules of procedure are explicit. During the trial on the merits, evidence must be formally offered by the parties otherwise the trial court will not consider it.[8] To be precise, insofar as pertinent to this case, documentary and object evidence are offered after the presentation of a party's testimonial evidence; such offer is done orally unless allowed by the court to be done in writing.[9] An objection to evidence offered orally must be made immediately after the offer is made. An offer of evidence in writing shall be objected to within three (3) days after

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thousand pesos or imprisoned for a term of not less than six (6) months nor more than five (5) years, or both (as amended by PD 1994).

[8] Sec. 34, Rule 132, Rules of Court.

[9] Sec. 35, *id.*

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notice of the offer unless a different period is allowed by the court.[10]

In the instant case, respondent Alejandro has not offered his evidence and, understandably so, because the proceedings were still at the pre-trial stage. It follows that the opportunity to object to the returns had not yet come. At the trial on the merits, respondent Alejandro may decide to formally offer the returns if he believes they will advance his cause. Petitioner may then object. Or, respondent Alejandro may decide not to offer them at all. In the latter event, such documents cannot be considered evidence nor can they be given any evidentiary value, in which case, there can be no occasion for petitioner to interpose an objection. The rationale of the rule is that it is the duty of the judge to rest his findings of facts and judgment only and strictly upon the evidence offered by the parties at the trial.[11]

In *People v. Teodoro*,[12] a witness was still testifying on a certain piece of evidence, identifying it, when upon objection that the original must be produced the trial court ordered the whole testimony stricken out. This Court annulled the order thus -

> It must be noted that the Fiscal was only identifying the official records of service of the defendant preparatory to introducing them (the said records) as evidence x x x The time for the presentation of the records had not yet come; presentation was to be made after their identification x x x The objection of counsel for the defendant was, therefore, premature x x x So was the ruling of the respondent judge sustaining the objection; both were premature and beside the point x x x

Furthermore, whether respondent Alejandro violated certain legal provisions when he cited the income tax returns of Alexander to bolster his claim is an issue which requires trial on the merits and cannot be decided based merely on the allegations in the

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[10] Sec. 36, *id.*

[11] *Tabuena v. Court of Appeals,* G.R. No. 85423, 6 May 1991, 196 SCRA 650.

[12] 98 Phil. 569 (1956).

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pleadings.[13] The objective of our rules of procedure is to ensure order in the conduct of litigations. The parties therefore are bound to observe them.

In light of the foregoing, it becomes unnecessary to discuss the other arguments raised by petitioner.

WHEREFORE, the petition is DENIED. The decision and resolution of respondent Court of Appeals granting the prayer for preliminary injunction, denying the motion to strike out the income tax returns of Alexander T. Ty and disallowing the intervention of Angelina Piguing-Ty, are AFFIRMED. Costs against petitioner.

SO ORDERED.

Vitug, Kapunan, and *Hermosisima, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 126594. September 5, 1997]

IMELDA R. MARCOS, *petitioner, vs.* **The Honorable COURT OF APPEALS; Honorable Judge GUILLERMO L. LOJA, SR., the Presiding Judge of Branch 26 of the RTC at Manila; and the PEOPLE OF THE PHILIPPINES,** *respondents.*

SYNOPSIS

Nearly six years after the 1986 EDSA Revolution which toppled the Marcos regime, petitioner was charged with violations of Sections 4 and 10 of CB Circular 960 before the RTC of Manila for allegedly opening and maintaining foreign

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[13] See *Jao and Company, Inc. v. Court of Appeals*, G.R. No. 93233, 19 December 1995, 251 SCRA 391.