

**ESTEBAN JOSE, PLAINTIFF-APPELLEE, VS. CARMEN BLUE, ET AL.,
DEFENDANTS, CATALINA CAYETANO, OPPOSITOR-APPELLANT.***G.R. No. L-28646. November 29, 1971*

Ponente: ZALDIVAR, J.

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Appeal on a question of law from the order of the Court of First Instance of Manila, in its Civil Case No. 56694, directing the Register of Deeds of Manila to cancel Transfer Certificate of Title No. 84591 in the name of appellant Catalina Cayetano and to issue another, in lieu thereof, in the names of appellee Esteban Jose and of Julita Luis, share and share alike, and ordering that a writ of execution issue against the share of Julita Luis for the satisfaction of the sum of P1,000.00, together with the costs, awarded in favor of appellee Esteban Jose.[1]

The facts, as shown in the record, are as follows:

During his lifetime, Cipriano Jose married three times. In his first marriage with Sabina Vidad he had a son with her, the herein appellee Esteban Jose. Sabina died in 1927. His second marriage was with Emilia de los Reyes, by whom he had no child. During their marriage Cipriano Jose and Emilia de los Reyes acquired a parcel of land with an area of 150 square meters, situated in Sampaloc, Manila, and covered by Transfer Certificate of Title No. 41711 issued by the office of the Register of Deeds of Manila. Emilia de los Reyes died in 1937, leaving no ascendant, descendant or collateral relatives, and so Cipriano Jose became the sole owner of the said parcel of land. His third marriage, which was contracted on July 23, 1941, was with Carmen Blue. During their marriage, Cipriano Jose and Carmen Blue acquired a piece of land also situated in Sampaloc, Manila, with an area of 150 square meters, and covered by Transfer Certificate of Title No. 63565. On September 6 1962, Cipriano Jose died in the City of Manila, leaving as his estate the two lots herein mentioned. Surviving him were his widow, Carmen Blue, and his son by the first marriage, Esteban Jose.

The widow, Carmen Blue, representing that the owner's duplicates of TCT Nos. 41711 and 63565 were lost, applied for, and was issued, second duplicates of TCT Nos. 41711 and 63565, covering the two lots above-mentioned. Armed with these duplicate certificates of title, and representing that Cipriano Jose had left no ascendant, descendant, nor collateral relatives, and that she was his only legal heir, Carmen Blue was able to have the two lots adjudicated to her extrajudicially, and so new TCT Nos. 70427 and 70428 were issued in her name, subject to the legal encumbrance provided for in Section 4 of Rule 74 of the Rules of Court with respect to the right of any heir or distributee who might have been unduly deprived of his lawful participation in the estate to question the award within two years from the date of such adjudication. That legal encumbrance was annotated at the back of those two new certificates of title. Having the certificates of title in her name, Carmen Blue sold the lot covered by TCT No. 70427 to Julita Luis on July 27, 1963, for the sum of P3,000.00, and so TCT No. 70427 was cancelled and TCT No. 71944 was issued in the name of Julita Luis. On January 28 1964, Carmen Blue also sold the other lot, covered by TCT No. 70428, to the spouses Bernardo Pardo and Zenaida de Dios-Pardo for the sum of P14,500.00, and so TCT No. 70428 was cancelled and TCT No. 73924 was issued in the names of said spouses.

Unaware of what Carmen Blue had done, Esteban Jose instituted intestate proceedings of the estate of his father in the Court of First Instance of Manila (Special Proceeding No. 51940), and in said proceeding he was declared the sole heir of Cipriano Jose. When Esteban Jose was about to cause the titles of the two lots to be transferred to his name, he discovered that the two lots had been adjudicated to Carmen Blue and that she had sold those lots -- one to Julita Luis, and the other to the spouses Pardo. So, on March 25, 1964, Esteban Jose filed a complaint against Carmen Blue, Julita Luis and the spouses Pardo in the Court of First Instance of Manila[2], which complaint was later amended, praying, among others, that the adjudication of the two lots to Carmen Blue, and the sales made by her of the two lots to her co-defendants, be declared null and void, and that the titles, that were obtained by Carmen Blue in her name and subsequently by her co-defendants as the result of the sales, be cancelled. Esteban Jose, as plaintiff, caused a notice of lis pendens to be annotated on TCT Nos. 71944 and 73924, the first in the name of Julita Luis, and the second in the names of the spouses Pardo.

On April 23, 1964, defendants Bernardo Pardo and Zenaida de Dios-Pardo filed their answer containing affirmative defenses, a counterclaim against the plaintiff, and a cross-claim against their co-defendant Carmen Blue. Julita Luis failed to file her answer, and so she was declared in default.

On November 22, 1966, plaintiff Esteban Jose and defendants Carmen Blue and the Pardo Spouses, assisted by their respective counsel, submitted a compromise agreement which provided as follows:

"1. That it is agreed that the land covered by Transfer Certificate of Title No. 63565 of the Registry of Deeds of the City of Manila belonged to the conjugal partnership between Cipriano Jose, who died in 1962, and the defendant Carmen Blue, while the land covered by TCT No. 41711 belonged to the conjugal partnership between Cipriano Jose and Emilia de los Reyes; that on the death of Emilia de los Reyes in 1937 without issue, the land covered by TCT 41711 became the exclusive property of Cipriano Jose; and that on the death of Cipriano Jose, Carmen Blue became entitled to 1/2 of the land covered by TCT No. 63565 as her share of the assets of the conjugal partnership between her and Cipriano Jose and to her share as surviving spouse.

"That the estate of Cipriano Jose consists of the land covered by TCT No. 41711, 1/2 of the land covered by TCT No. 63565, and cash amounting to P5,076.60 which the plaintiff withdrew from the bank in which it was deposited.

"3. That Carmen Blue will receive 1/2 of the land covered by TCT 41711 3/4 of the land covered by TCT No. 63565 and 1/2 of the sum of P5,076.60, while the plaintiff will receive 1/2 of the land covered by TCT No. 41711, 1/4 of the land covered by TCT No. 63565, and 1/2 of the amount of P5,076.60.

"4. That Carmen Blue will refund to Bernardo Pardo the sum of P3,065.00 and Pardo will furthermore receive 3/4 of the land covered by TCT No. 63565 while Esteban Jose will receive 1/4 thereof.

"5. That Esteban Jose hereby sells, transfers and conveys his 1/4 share of the land covered by TCT No. 63565 to Bernardo Pardo for the sum of P9,375.00 payable after Esteban Jose and all persons claiming under him vacate the premises and that they agree to leave them within 15 days from the date of this compromise.

"6. That Carmen Blue will not demand from Esteban Jose the payment of 1/2 of the amount of P5,076.60, or P2,538.30, and Esteban Jose accepts that sum in full settlement of whatever liability Carmen Blue may have incurred for selling the land covered by TCT No. 41711 to Julita Luis, without prejudice to the right of the plaintiff to prosecute this case to judgment as against her and to obtain from her whatever relief may be proper.

"7. And that the parties mutually renounce all other claims to damages and attorney's fees they have against one another."

On November 29, 1966, the trial court, on the basis of the above-mentioned compromise agreement, rendered a

decision, the dispositive portion of which reads as follows:

"WHEREFORE, the foregoing compromise agreement is approved and judgment is rendered in accordance therewith, without any pronouncement as to costs."

On February 3, 1967, the lower court rendered a decision against defendant Julita Luis who was previously declared in default. Pertinent portions of the decision read as follows:

"Although Carmen Blue is entitled to only 1/2 of the land embraced in Transfer Certificate of Title No. 41711, she, however, transferred the whole of it to the defendant Julita Luis in whose name the land is now registered. Transfer Certificate of Title No. 71944 (Exhibit "E"), issued to her on July 29, 1963, bears, however, the annotation that it is subject to the claims of creditors, heirs and other persons unlawfully deprived of their participation in the estate of Cipriano Jose for a period of two years, pursuant to Section 4, Rule 74, of the Rules of Court.

"The transfer to Julita Luis having been made without the plaintiff's knowledge and consent, it and the title issued to her are null and void, with respect to his share of the property conveyed.

"WHEREFORE, judgment is hereby rendered declaring that the transfer of 1/2 of the land covered by Transfer Certificate of Title No. 41711 to Julita Luis is null and void and ordering the Transfer Certificate of Title No. 71944 be cancelled and another issued in lieu thereof in the names of Julita Luis and Esteban Jose as co-owners in equal shares and commanding further that Julita Luis pay the plaintiff P1,000.00 as attorney's fees together with the costs."

The decision against defendant Julita Luis, however, could not be implemented because, plaintiff Esteban Jose discovered that Julita Luis had sold the controverted property to Benjamin Agraviador who had secured the issuance in his name of TCT No. 75408, and that Agraviador had mortgaged the lot to Catalina Cayetano, which mortgage was foreclosed and TCT No. 85491 was issued in the name of Catalina Cayetano who was the highest bidder in the public auction sale. So, plaintiff Esteban Jose filed an omnibus motion, on June 7, 1967, which was later amended, praying that TCT No. 84591 in the name of Catalina Cayetano be cancelled and another be issued in the names of Julita Luis and plaintiff, share and share alike, and that a writ of execution be issued against the undivided portion of the lot corresponding to Julita Luis to satisfy the judgment in favor of the plaintiff for attorney's fees and the costs of the suit.

Notified of this omnibus motion, Catalina Cayetano, through counsel, filed her opposition under date of July 21, 1967. Catalina Cayetano averred that to grant what is prayed for in the omnibus motion would be to deprive her of her property without due process of law, because she was never a party to the case. Further, she alleged that since plaintiff Esteban Jose had already entered into a compromise agreement with Carmen Blue waiving whatever liability Carmen Blue may have incurred for selling the land originally embraced under TCT No. 41711 (now TCT No. 85491), such renunciation redounded to the benefit of Julita Luis and in effect recognized the transfer of the lot to her as well as to the subsequent purchasers including Catalina Cayetano. Resolving the opposition, the lower court issued its order of July 28, 1967, in the following tenor:

"As a judgment of the kind rendered in this case is conclusive not only between the parties but also their successors in interest by title subsequent to the commencement of the action (Rule 39, Sec. 49 [b], Rules of Court) and a notice of 'lis pendens' charges a stranger with notice of the litigation referred to therein so that a third person who acquires the property affected by the 'lis pendens' takes it subject to the eventuality of the litigation (Atkins, Kroll, & Co. v. Domingo, 46 Phil., 362), and it not being true that Esteban Jose has recognized the validity of the sale or transfer of the land to Julita Luis because the very compromise entered into by the parties, which was prepared in thy presence, expressly reserves to him the right to prosecute this case to judgment as against Julita Luis and obtain from her whatever relief may be proper that is, the

annulment of the sale in her favor, including whatever subsequent transfer she may have executed, if permissible under the law as prayed for, the Register of Deeds of Manila is ordered to cancel Transfer Certificate of Title No. 85491 in the name of Catalina Cayetano and issue another, in lieu thereof, in the names of Esteban Jose and Julita Luis, share and share alike, and it is further ordered that a writ of execution issue against the share of Julita Luis for the satisfaction of the sum of P1,000.00, together with the costs, awarded in Esteban Jose's favor."

Her motion for reconsideration of the foregoing order having been denied, oppositor Catalina Cayetano appealed directly to this Court.

Appellant Catalina Cayetano assigns four errors, allegedly committed by the trial court, which boil down to the question of whether or not the lower court erred in directing the Register of Deeds of the City of Manila to cancel TCT No. 85491 in the name of appellant Catalina Cayetano, and the issuance of another, in lieu thereof, in the names of appellee Esteban Jose and Julita Luis, share and share alike.

The record shows that when Carmen Blue secured the adjudication in her favor of the lot that was covered by TCT No. 41711 (in the name of Cipriano Jose) and TCT No. 70427 covering said lot was issued in her name, there was annotated on said TCT No. 70427 a memorandum of encumbrance which reads as follows:

"Entry No. 6151/T-70427 - LIABILITIES - To creditors, heirs and other persons unlawfully deprived of participation in the estate of the deceased CIPRIANO JOSE, for a period of two (2) years, pursuant to Sec. 4, Rule 74 of the Rules of Court.

"Date of Instrument - Feb. 7, 1963

"Date of inscription - March 14, 1963 at 4:00 p.m."

When Carmen Blue sold to Julita Luis the lot covered by TCT 70427 and TCT No. 71944 was subsequently issued in the name of Julita Luis there was also annotated on TCT No. 71944 the foregoing memorandum of encumbrance.

The record also shows that appellee Esteban Jose filed the complaint in Civil Case No. 56694 of the Court of First Instance of Manila, against Carmen Blue and Julita Luis, to claim his right as an heir of the lot covered by TCT No. 71944 on March 25, 1964, and on June 2, 1964 there was annotated on TCT No. 71944 a notice of lis pendens, which reads as follows:

"Entry No. 5252/T-2422 - NOTICE OF LIS PENDENS - Filed by Glenn C. Manahan, counsel for the plaintiff alleging among others that there is a pending case before the CFI of Manila for recovery of the ownership of the property herein described in Civil Case No. 56694 entitled Esteban Jose plaintiff vs. Carmen Blue, et al.

"Date of instrument - June 1, 1964

"Date of inscription - June 2, 1964 at 1:30 p.m."

The record further shows that on June 17, 1964, when TCT 71944 was cancelled and TCT No. 75408 was issued in the name of Benjamin Agraviador, to whom Julita Luis had sold the lot covered by TCT No. 71944, the annotations regarding the liabilities under Section 4 of Rule 74 of the Rules of Court, and the notice of lis pendens, above-mentioned, were carried over on TCT No. 75408.

Likewise, when TCT No. 84591 was issued in the name of appellant Catalina Cayetano, the same annotations regarding the liabilities under Section 4 of Rule 74, and the notice of lis pendens, were carried over on TCT No. 84591.

Cipriano Jose died on September 6, 1962. When appellee Esteban Jose filed the complaint in the present case, on March 24, 1964, to assert his claim over the lot, formerly, covered by TCT No. 70427 and later covered by TCT No. 71944, he had exercised his right within two years from the date of the extra-judicial adjudication pursuant to Section 4 of Rule 74 of the Rules of Court. It is clear that when Julita Luis bought the lot in question from Carmen Blue she had knowledge of the encumbrance under Section 4 of Rule 74 of the Rules of Court. When the appellee filed the complaint in the present case, he caused the notice of lis pendens to be inscribed in the certificate of title that was already in the name of defendant Julita Luis. Likewise, when Benjamin Agraviador bought the land from Julita Luis he had knowledge of the two encumbrances which were annotated on the certificate of title of Julita Luis. The same encumbrances were annotated on the certificate of title that was issued in the name of Benjamin Agraviador, so that appellant Catalina Cayetano also had knowledge of the same encumbrance when she bought the lot covered by the certificate of title in the name of Benjamin Agraviador in a public auction sale. As a matter of fact, the same encumbrances were annotated on the certificate of title that was issued to appellant Catalina Cayetano.

It is clear, therefore, that appellant Catalina Cayetano is a successor in interest by title subsequent to the commencement of the action filed by herein appellee, so that her acquisition of the lot in question was subject, and must yield, to the superior right of the appellee who was an heir of Cipriano Jose. The appellee filed an action based on a right reserved for him under Section 4 of Rule 74 of the Rules of Court, and when he filed this action he caused a notice of lis pendens, to be annotated on TCT No. 71944 in the name of Julita Luis, which was the certificate of title covering the lot in question at the time when the action was filed. The notice of lis pendens is intended to protect the real rights of the party causing the registration thereof. With the notice of lis pendens duly recorded, a party can rest assured that his claim or right over the property in litigation is safe-guarded. The notice of lis pendens is an announcement to the whole world that a particular real property is in litigation, and serves as a warning that one who acquires an interest over said property does so at his own risk, or that he gambles on the result of the litigation over said property.[3] Since appellant herein bought the land in question with knowledge of the existing encumbrance thereon, she cannot invoke the right of a purchaser in good faith, and she could not have acquired better rights than those of her predecessors in interest.

The predecessors in interest of herein appellant were Benjamin Agraviador, Julita Luis, and Carmen Blue. Inasmuch as it was declared by the lower court in its decision that Carmen Blue was only entitled to the undivided one-half share of the lot in question, because the other half is the undivided share of appellee Esteban Jose, and that the sale by Carmen Blue of the whole lot to Julita Luis without the consent of the appellee was null and void, and the certificate of title that was issued in the name of Julita Luis was also null and void, that declaration of the court had affected the interest not only of Julita Luis, who was a defendant in the case, but also the interests of all other persons who succeeded Julita Luis by title subsequent to the commencement of the action against Julita Luis. Thus, the decision against Julita Luis affects herein appellant Catalina Cayetano even if she was not originally a party in the case. Being a transferee pendente lite of the property in litigation, the appellant stands in the shoes of her predecessors in interest, namely, the defendants Carmen Blue and Julita Luis, and Benjamin Agraviador. The appellant may be a proper party in the case, but she is not an indispensable party, and she is bound by the judgment against her predecessors in interest.[4]

The claim of the appellant that she is being deprived of her property without due process of law is untenable. The purpose of impleading a party in a case, so that he may be bound by a court proceeding, is merely to assure the party of a day in court. In the case at bar the protective mantle of due process had been accorded the appellant because she was furnished with a copy of the omnibus motion of the appellee in the court below, she filed her opposition to said omnibus motion, and she filed her motion for reconsideration of the order of the trial judge granting what was prayed for in the omnibus motion, and so the appellant had her day in court, and she may be

held as a party in the litigation.[5] The objection that the judgment cannot affect her because she was not included as original party defendant in this case is a resort to technicality which would not serve a useful purpose. We have repeatedly held that technicalities should be ignored when they do not serve the purpose of the law.[6] This Court has held that a judgment may be binding upon a person who is not originally a party in the case if he submits his interest to the court for consideration in the same case and invites adjudication regarding said interest.[7]

The appellant also contends that the lower court should not have entertained any more the suit of the appellee against Julita Luis because in the compromise agreement entered into between the appellee and Carmen Blue it was agreed that Carmen Blue would not demand from the appellee the payment of one-half of the amount of P5,076.60, or P2,538.30, and that the appellee would accept that amount in full settlement of whatever liability Carmen Blue might have incurred for selling the land covered by TCT No. 41711 to Julita Luis. This contention is also untenable. Let it be noted that in the compromise agreement the appellee did not recognize the validity of the sale by Carmen Blue to Julita Luis of the lot covered by TCT No. 41711. On the contrary, the appellee had reserved his right to prosecute his case against Julita Luis and to obtain from her whatever relief might be proper. If the appellee had accepted the sum of P2,538.30 in full settlement of whatever liability Carmen Blue had incurred for selling the land to Julita Luis, it was simply in consideration of his waiver of whatever claim he might have against Carmen Blue. Certainly Carmen Blue had prejudiced the rights of appellee when she represented herself as the sole heir of Cipriano Jose -- knowing that the appellee was a surviving son of Cipriano Jose -- and adjudicated to herself alone the two lots belonging to the estate left by Cipriano Jose. Carmen Blue compounded the prejudice to the rights of appellee when she sold the two lots to third parties, thereby necessitating the filing of an action by the appellee against Carmen Blue and the purchasers of the two lots in order to protect his rights as an heir of Cipriano Jose.

The trial court declared that Carmen Blue was entitled to only one-half of the lot which she sold to Julita Luis, because the other half was the share of herein appellee. When Carmen Blue sold the whole lot to Julita Luis without the knowledge and consent of appellee, the most that Julita Luis had acquired in virtue of that sale was the undivided one-half portion which was the share of Carmen Blue. The lower court, therefore, had correctly held that the sale of the whole lot to Julita Luis was null and void, and TCT No. 41711 that was issued in the name of Julita Luis as a result of the sale was also null and void. When the lower court, however, ordered the cancellation of TCT No. 85491 in the name of appellant Catalina Cayetano and the issuance of another title in the names of Esteban Jose and Julita Luis, share and share alike, it had thereby recognized that Julita Luis had acquired a right over the undivided one-half share in the lot in question. We sustain the ruling of the lower court in this connection. And so when Julita Luis sold the whole lot in question to Benjamin Agraviador, the most that she could have conveyed to the latter was the undivided one-half share in said lot. It follows that the most that Benjamin Agraviador could have mortgaged was the one-half undivided share in the lot, and all that appellant Catalina Cayetano had acquired in the public auction sale when the mortgage constituted by Benjamin Agraviador on the whole lot was foreclosed was only one-half undivided share in said lot. It is Our considered view, therefore, that it would be in the interest of justice and equity that the right of appellant Catalina Cayetano over one-half of the lot in question should be recognized, and that a new certificate of title should be issued in the names of appellee Esteban Jose and appellant Catalina Cayetano, share and share alike. It would not be fair that Julita Luis be still considered the owner of one-half of this lot after she had sold whatever interest she had in the lot to Benjamin Agraviador. And it would not be fair also that appellant be left without any right and interest on the lot after she had paid for it at the public auction sale. This ruling is without prejudice to appellee's pursuing the execution of the judgment in his favor for attorney's fees and costs of this suit in the lower instance against Julita Luis, by levying on whatever property Julita Luis has.

WHEREFORE, the order appealed from is modified in the sense that the Register of Deeds of Manila is ordered

to cancel TCT No. 85491 in the name of appellant Catalina Cayetano and issue another, in lieu thereof, in the names of appellee Esteban Jose and appellant Catalina Cayetano, share and share alike. The judgment of the lower court in favor of appellee Esteban Jose for attorney's fees and the costs of the suit, against Julita Luis, may be levied on execution against any property owned by Julita Luis. No pronouncement as to costs in this instance.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Julita Luis is neither an appellant nor appellee in the present appeal, although she was a defendant in the court below.

[2] Civil Case No. 56694.

[3] Nataño, et al., vs. Esteban, et al., L-22034, October 28, 1966, 18 SCRA 481; Clemente vs. Pascua, L-25133, October 4, 1968, 25 SCRA 422; Rehabilitation Finance Corporation vs. Morales, 101 Phil. 171; Jamora vs. Duran, et al., 89 Phil. 3; Atkins, Kroll and Co. vs. Domingo, 46 Phil. 362.

[4] Fetalino vs. Sans, 44 Phil. 691, citing 31 Cyc., 473.

[5] Albert vs. University Publishing Co. Inc., L-19118, June 16, 1965; 14 SCRA 285.

[6] Torres vs. Caluag, et al., L-20906, July 30, 1966; 17 SCRA 808.

[7] Valdez vs. Valdez, L-11327, October 11, 1958.

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