

**DOMINADOR STA. ANA, PETITIONER, VS. HON. DELFIN VIR. SUÑA,
JUDGE OF THE COURT OF FIRST INSTANCE OF CAMARINES SUR,
BRANCH I, MAURO B. FAJARDO, PROVINCIAL SHERIFF OF
CAMARINES SU...**

G.R. No. L-32642. November 26, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court in this original action grants certiorari and prohibition against enforcement of an order of demolition issued against petitioner in enforcement of a judgment in personam that is not binding against him since he was not a party to the case nor privy to the parties thereto. The case is ordered remanded to the court of origin for hearing and reception of evidence on the parties' conflicting claims of ownership and bona fide possession by right of purchase on petitioner's part and of respondents' counter-assertion that petitioner is a privy to the defeated litigants and claims possession as transferee pendente lite in connivance with them to frustrate the judgment. Respondent court's denial of a hearing to petitioner deprived him of his right to a day in court and to due process of law.

In an action to quiet title to a residential parcel of land located at Barrio Bagacay, Tinambac, Camarines Sur containing an area of approximately 1,100 square meters and referred to as Lot B filed by Victor Dasal and Maria Pecunio as plaintiffs against Pelicula Sabido and Maximo Rances as defendants (private respondents at bar),[1] said defendants (herein respondents) prevailed in their contention that Lot B was but a strip of land forming part of their property of over two hectares which they had entrusted to plaintiff Maria Pecunio as their encargada but which she later tried to claim as her own. In their amended answer, however, respondents averred that "if plaintiffs are referring to that portion of land adjoining the defendants' property on the west and belonging formerly to Antonio Amator as their alleged second parcel of land then defendants allege herein that they have made no pretense whatsoever of ownership over the same much less have they occupied the same or taken possession thereof." [2]

After respondent court received the report of the commissioner it had appointed to delimit the land disputed by the parties, which it approved without objection, it found that the land in dispute "was only the northern strip of the land of the defendants described in their amended answer [of over two hectares] and which is designated as Lot B in the sketch attached to the commissioner's report..." [3] It rendered its decision dated October 7, 1969 wherein it found that "(T)he plaintiffs failed to show that they are the owners of said Lot B" and declared the defendants [herein respondents] owners of the land in question" and further sentenced "plaintiffs to vacate the said Lot B and deliver its possession to the defendants" and to pay defendants the sum of P435.00 for each year from January 1, 1952 until complete delivery of the property, with P300-attorney's fees and costs. [4]

Its decision having become final and executory, respondent court issued on January 29, 1970 a writ for its execution. Respondent sheriff served on February 14, 1970 the writ of execution against plaintiffs and made his

return on February 20, 1970,[5] whereby he reported having delivered material possession of the land, Lot B, to herein respondents "except the western portion measuring 6 meters by 32 meters enclosed by a concrete wall on on three sides which is claimed by [petitioner at bar] Dominador Sta. Ana who is not a party to this case." He added that "(I)n side Lot B which is the land in ques-tion is a house owned by Felix San Andres and another house owned by Emeterio Corporal. The latter owned another house the portion of which is inside the land in question. Both Felix San Andres and Emeterio Corporal promised to remove their houses within ten (10) days from February 14, 1970."

Respondents as the prevailing parties then filed on March 31, 1970 their "Motion (a) to require Dominador Sta. Ana to show cause why he should not be ejected from the portion of Lot B detained by him and (b) to authorize the sheriff to demolish the houses of Felix San Andres and Emeterio (Eleuteria) Corporal which are still stand-ing on Lot B," alleging that they were "reliably informed" that after the judgment plaintiffs "maliciously and in bad faith purportedly con-veyed" the lot to petitioner Sta. Ana.

Petitioner with the two other persons so cited then filed through counsel their pleading denominated as answer dated April 22, 1970,[6] wherein petitioner invoked inter alia the following defenses:

- The admission in respondents' motion that petitioner Dominador Sta. Ana is not a party in the case "is the best reason why [he] should not be ejected from the portion of Lot B... . It is a fun-damental rule of law that a stranger to a case is not bound or affected by any judgment that may be rendered therein. Such judgment is only valid and binding between the parties thereto;"
- "The proper procedure is to hold a hearing at which the opposing parties will introduce their respective evidence to prove the legality of their possession;"
- Felix San Andres and Emeterio (Eleuterio) Corporal are mere tenants of petitioner; and
- The judgment is null and void because trial thereof was continued long after plaintiff Victor Dasal had already died on January 5, 1965 and without his heirs or legal representative having been ordered substituted for him.

Upon respondents' reply and opposition to the hearing asked by petitioner, citing against him the commissioner's report and the testimony of the deceased plaintiff's only son at the trial (notwithstand-ing petitioner not being a party therein), respondent court upheld in its order dated May 5, 1970 respondents' contentions and overruled petitioner's opposition against the enforcement of the judgment against him and ordered that:

"Respondents, Dominador Sta. Ana, Felix San Andres, Eleuteria (Emeteria) Corporal, their agents or repre-sentatives are given ten (10) days from receipt of this order to demolish their houses standing on the western portion of Lot B or any portion of the same."[7]

Petitioner filed on May 16, 1970 his motion for reconsidera-tion[8] insisting that as a total stranger in the case, he could not be bound by the judgment therein. Petitioner insisted on his right to a hearing wherein he could show to respondent court that he is "the lawful owner and possessor of a bigger parcel of land containing an approximate area of one (1) hectare, ninety-nine (99) ares and forty-four (44) centares, of which bigger parcel of land, the land in question in this case, is only a part." Petitioner averred that he had acquired the land "by absolute sale from Prudencio Lagarto on December 20, 1951" and submitted certified copies of the deed of absolute sale as well as tax declarations in the name of said seller in support thereof. Petitioner thus took pains to show that he had no privity with either of the parties-litigants in the case nor relation as successor in interest of any of them, but claimed ownership on his own and rights adverse to both of them since he acquired by purchase the bigger portion of land, of which Lot B is but a part, from Prudencio Lagarto (an entirely different and independent source) on December 20, 1951 "and not from Antonio Amator or from Eugenio Darilay or Arcadio Narvadez from whom the

plaintiffs claim to have acquired the land in question nor from Manuel Sabido whom the defendants claim to be the original owner of the land in question" as stated in respondent court's decision.

Petitioner further stressed that he "is not an agent of the plaintiffs or judgment debtor in any sense." He therefore protested why respondent court should grant respondents something which they had not even alleged or asked for in their basic motion of March 31, 1970, i. e. the demolition of petitioner's house, when his house worth P30,000.00 is not on the portion measuring 32 meters long by six meters wide which the sheriff stated in his return was the only portion not delivered in satisfaction of the judgment to respondents since it was claimed by petitioner and all that respondents had asked in their motion was for him to show cause why he should not be ejected therefrom.

Petitioner further explained in insisting on his right to be heard and to a day in court that he could not file a petition to intervene in the case between plaintiffs and respondents as he had no knowledge of its pendency and learned only about it after the judgment when respondents filed their motion of March 31, 1970 asking for his ejectment from a portion of Lot B, as above stated.

Respondents filed their opposition of July 9, 1970 with a sketch, branding petitioner's allegations as false, alleging inter alia that Prudencio Lagarto had earlier on June 30, 1938 sold the land claimed to have been purchased by petitioner to one Benito Villarente, and that at any rate the 1.9944 hectare lot claimed by petitioner was very different in its bound-aries from Lot B subject of the case.[9]

Petitioner in turn filed a point-by-point reply of August 19, 1970 also with a sketch and various other documents annexed thereto[10] among them a certificate from the national archives showing that the archived notarial files of the notary public who allegedly notarized Prudencio Lagarto's sale of the lot to Benito Villarente did not show any such document, in suport of his contention that such claim of a prior sale was "fictitious."

Respondent court in its order of September 17, 1970, denied petitioner's motion for reconsideration as "devoid of merit." [11]

Respondents under date of September 30, 1970 filed their motion for issuance of a writ of demolition[12] pursuant to respon-dent court's order of May 5, 1970, granting petitioner et al. a ten-day period "to demolish their houses standing on the western portion of Lot B or any portion thereof." Respondents alleged "that although the foregoing order was received by Mr. Basilio Catimbang, counsel for the respondents on May 8, 1970, and by the respondents Dominador Sta. Ana and Elueteria Corporal on May 14, 1970 and May 28, 1970 respec-tively, said respondents have not yet removed their houses from Lot B until now," and prayed "that a writ of demolition be issued ordering the sheriff to demolish the houses of the respondents from Lot B at the expense of said respondents."

Respondent court set the motion for hearing on October 23, 1970 under its order of October 2, 1970. On October 12, 1970, petitioner filed the present action for certiorari and prohibition with preliminary injunction. On October 15, 1970, the Court required respondents to answer the petition and ordered the issuance of a preliminary injunction against execution of respondent court's order of May 5, 1970 and its ordering the demolition of petitioner's house upon a P1,000 injunction bond.

From the maze of voluminous pleadings and factual allegations on petitioner's part and counter-allegations on respondents' part, sup-ported with numerous documentary evidence and exhibits proffered in respondent court as well as in this Court, it is patent that petitioner's claims are far from being baseless or unmeritorious and entitle him to a hearing and a day in court, as urged by him from the beginning in respondent court.

It is conceded in the answers of both respondent court and private respondents that "petitioner has no house inside

Lot B" and respondent court stated that the inclusion of petitioner's house in his demolition order of May 5, 1970 "was a palpable mistake caused either by mere inadvertence or clerical error which the herein respondent would have immediately corrected had petitioner called his attention to it." [13] Yet petitioner had so called respondent court's attention to his wrongful inclusion in the demolition order in his motion for reconsideration, which was denied peremptorily, as above stated.

Petitioner claims rights of ownership over a 1.9944-hectare lot of which he contends Lot B is a mere portion and traces his ownership back to 1951 from a third party entirely different and with no relation whatever to plaintiffs and respondents-defendants in the case below or to their respective claimed sources of title. Respondent court's judgment in the case below which is a judgment in personam is binding only upon the parties thereto and their privies and successors in interest but not upon strangers thereto as petitioner appears to be by virtue of the provisions of Rule 39, section 49 (b) of the Rules of Court. [14]

The late Chief Justice Moran stressed this fundamental precept in the analogous case of *Omaña vs. Gatulayao* [15] wherein the Court held that movants-appellants therein, who were in the same position as petitioner herein, who "were never made parties to the proceedings wherein [appellees] were adjudged owners of the land in question nor do they sustain any relation of privity with said [appellees]... [16] cannot, therefore, be bound by the judgment rendered therein in favor of the said plaintiffs, and the enforcement of said judgment against them is in excess of jurisdiction. Judgment rendered in actions in personam, as in the instant case, are enforceable only between the parties and their successors in interest, but not against strangers thereto."

Chief Justice Moran indicated the proper procedure in such cases, thus: "There may be cases when the actual possessor may be claimed to be a privy to any of the parties to the action, or his bona-fide possession may be disputed, or where it is alleged, as in the instant case, that such possession has been taken in connivance with the defeated litigant with a view to frustrating the judgment. In any of these events, the proper procedure would be to order a hearing on the matter of such possession and to deny or accede to the enforcement of a writ of possession as the finding shall warrant. But in the absence of any such hearing or any proceeding of similar character, every person in the actual possession of the land has a right to be respected therein (art. 446, Civil Code) and his ejectment would constitute a deprivation of a property right without due process of law." [17]

In *Sicat vs. Reyes*, [18] the Court, through Justice Felix Angelo Bautista, restated the rule to simply mean that a judgment in personam can not be binding and conclusive upon one who is not a party to the case nor privy to the parties thereto "for the simple reason that he was not given his day in court" and thus deprived of due process of law and therefore the order therein for the stranger *Sicat's* ejectment from the land as well as the writ of execution issued against him were held to be null and void as having been issued in excess of the issuing court's jurisdiction.

This point of petitioner being entitled to a hearing and his day in court since he was a stranger to the case below is decisive of the case at bar. Petitioner's assailing the judgment because it was rendered after plaintiff *Victor Dasal's* death without his having been formally substituted by his heirs is of no consequence, since his widow and only son and heir duly defended their interests and testified at the trial, as held by respondent court. On the other hand, respondents' defense that certiorari does not lie since petitioner had the remedy of appeal is untenable, for the simple reason that petitioner was a stranger to the case, and not being a party, could not file an appeal and therefore correctly filed the present special civil action for certiorari and prohibition assailing respondent court's jurisdiction to issue the demolition order against him.

During the pendency of the case, various other incidents arose between the parties at bar. On April 27, 1972, petitioner filed a motion to cite respondents for contempt of court for violation of the Court's preliminary injunction and to order them to remove an allegedly illegally constructed fence (of coconut trunks) to harass

petitioner and block access to his house. Comment and reply were filed by the parties contradicting each other's allegations and again raising a number of factual questions which can only be determined through a hearing and reception of the parties' evidence.

On July 6, 1973, petitioners further filed a petition for preli-minary mandatory injunction to order respondents "to demolish their illegally constructed fence." Numerous extensive pleadings raising conflicting questions of fact which cannot be sifted nor determined in this action were again filed by the parties.

The resolution of these incidents will have to await the outcome of the hearing which the Court directs should be held by respondent court to receive the evidence on the conflicting claims of the parties as to whether petitioner may be held to be privy by transfer or succession to the plaintiffs (defeated parties) in the case below and merely a transferee pendente lite of said plaintiffs, as claimed by herein respondents or whether as claimed by petitioner, he is a total stranger to the action and cannot be bound by respondents' judgment against the plaintiffs therein.

If respondents are upheld at such hearing, then the judgment may be enforced against petitioner, subject of course to review by a higher court of the correctness of such findings and conclusions of respondent court. In the contrary case, again subject to review by a higher court at respondents' instance, the judgment cannot be enforced against petitioner as a total stranger without any relation of privity with the parties.

Respondent court's disposition of the incidents of the alleged illegal fence constructed by respondents would depend on its factual findings on the parties' conflicting factual allegations and its assessment of whether they are included in the issues properly joined by the parties and therefore may be resolved in the case below or whether they raise completely new issues and questions, e. g. petitioner's claimed right of access, which have to be determined in a separate action between respondents and petitioner as an entirely new party.

The boundaries and limits of the areas respectively claimed by petitioner and respondents have to be delineated and specified, so that it may properly be determined whether they are litigating over the same parcel of land as petitioner claims, or whether petitioner's claimed purchase from Prudencio Lagarto covers an entirely different parcel of land as claimed by respondents, or whether as is likely judging from their conflicting sketches and assertions there is an over-lapping of boundaries of their respective lands.

Still, since petitioner claims that the disputed portion of land belongs to him and that although his house is concededly not constructed thereon respondents are asking for its demolition as ordered by respondent court's order of demolition of May 5, 1970, which it has not revoked at all, notwithstanding its admission that petitioner's inclusion therein was a "palpable mistake" and petitioner admittedly was not a party to the case below and a relation of privity with the losing parties has not been shown, petitioner as the actual possessor of the disputed portion of the land (as acknowledged even in the sheriff's return) has a right to be respected therein until and unless otherwise determined by respondent court in a hearing at which petitioner shall have been given an opportunity to be heard and to present his side - for otherwise his summary ejectment without hearing would constitute a deprivation of a property right without due process of law.

ACCORDINGLY, the writs of certiorari and prohibition prayed for are granted. The questioned orders of respondent court of May 5, 1970 and Sept-ember 17, 1970 are hereby set aside. The case is ordered remanded to respondent court for hearing and reception of evidence as to whether petitioner is or is not privy to plaintiffs as the losing parties in the action and for the purposes related thereto as indicated in the opinion of the Court. With costs against private respondents.

Makalintal, C.J., Ruiz Castro, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

- [1] Docketed as Civil Case No. 2040 of the CFI of Camarines Sur.
- [2] Annex D, petition; Record, p. 47
- [3] Decision, Annex E, petition, Record, p. 51; note in brackets supplied.
- [4] *Idem*, p. 56.
- [5] Annex G, petition, Record, back of p. 58; emphasis supplied.
- [6] Annex I, petition, Record, p. 62.
- [7] Annex K, petition, Record, p. 77.
- [8] Annex L, petition, Record, pp. 78-91; emphasis copied.
- [9] Annex O, petition; Record, pp. 94-105.
- [10] Annex P, petitioner; Record, pp. 106-135.
- [11] Annex M. petition, Record, p. 92.
- [12] Annex Q, petition, Record, p. 136.
- [13] Respondent court's answer dated December 9, 1970; Record pp. 178, 179.
- [14] The rule provides: "(b) In other cases the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and, under the same title and in the same capacity."
- [15] 73 Phil. 66, 68 (1941).
- [16] Citing Rule 39, sec. 44 (b) of the old Rules of Court; see fn. 14; emphasis supplied.
- [17] Emphasis supplied. See 2 Moran's Rules of Court, 1970 Ed. p. 360 and cases cited.
- [18] 100 Phil. 505 (1956); See also *Sengbengco vs. Arellano*, 1 SCRA 711 (1961) and *Yulo vs. Yang*, 107 Phil. 527 (1960) to the same effect.

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