

**BERNARDO CORDA, ET AL., PLAINTIFFS AND APPELLANTS, VS.
EUGENIO MAGLINTI, DEFENDANT AND APPELLEE.***G.R. No. L-17476. November 30, 1961*

Ponente: BAUTISTA ANGELO, J.

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Bernardo Gorda, et al. filed on October 26, 1948 a complaint before the Court of First Instance of Misamis Occidental against Eugenio M. Maglinti to recover two parcels of land and damages for all the fruits received by the latter during his occupation thereof from December, 1939 up to the time of the filing of the complaint in 1948. After trial on the merits, the court a quo rendered decision dismissing the complaint. Plaintiffs having appealed from the decision, the Court of Appeals modified it in the sense of declaring plaintiffs the owners of five-seventh (5/7) of the property in question while defendant the owner of two-seventh (2/7) thereof, affirming the decision of the court a quo in all other respects

When the case was returned to the court of origin plaintiffs filed a motion for receivership in order that the property may be placed under his administration during the time it is undivided which motion was readily granted and so the property remained under receivership from February 17, 1953 to August 17, 1957. Immediately thereafter, plaintiffs filed in the same case a petition for partition based on the decision of the Court of Appeals, but this petition was denied on the ground that the same should be made the subject of a separate action. Whereupon, plaintiffs commenced the present action of partition against Eugenio M. Maglinti on April 23, 1955.

Instead of presenting evidence, the parties submitted a written stipulation in the form of an amicable settlement wherein they agreed that plaintiffs be declared owners of the first parcel of land and defendant of the greater portion of the second parcel of land excluding the portions belonging to Tranquilina Tamarong and Gregoria Corda, but including a reservation that whatever claims the parties may have against each other will be the subject of determination by the court. On the face of this stipulation, the court a quo rendered decision approving the same and enjoining the parties to comply with its terms and conditions. The court further ordered that pending the delivery of the shares corresponding to each party, the produce of the land be delivered to the receiver appointed in the former case, requiring in this connection the receiver to submit a written report on his work within 15 days from receipt of the decision.

On September 22, 1958, the case was called for hearing to determine what other steps should be taken relative to its termination and it was then that plaintiffs asked that they be allowed to present evidence relative to their claims for damages. Because of the opportune objection of defendant, the court a quo denied the request. And as it appears that the properties adjudicated in the partition had already been delivered to parties as stated in the report submitted by the commissioner of partition the court considered the case closed and terminated. Hence the present appeal which was certified to this Court by the Court of Appeals because it involves purely questions of law.

The main theme of appellants is that the court a quo erred in not permitting them to introduce evidence to prove their claim for damages resulting from their unlawful deprivation of their shares in the property in litigation

considering that in the written stipulation submitted by the parties relative to its partition there is a reservation that "whatever claims the parties have against each other will be reserved for further determination of this Court." They contend that, availing themselves of this reservation, they asked the trial court to give them an opportunity to present evidence, but their request was denied. This claim for damages, they intimated, is but a sequel to the finding of the Court of Appeals that they are the owners of 5/7 of the property in litigation and it is but just that they be indemnified of the fruits they failed to enjoy during the period of their dispossession. But this claim was resisted by appellee on the ground of *res judicata*, which contention was upheld by the trial court.

We are inclined to uphold the ruling on the basis of the facts appearing in the record. It appears that in the complaint filed by appellants in original case No. 1142 they alleged two causes of action, one to recover two parcels of land and the other to recover damages for the fruits unlawfully enjoyed by appellee from December, 1939 up to the filing of this case in 1948. When the case was tried on the merits appellants presented evidence not only on their main claim but likewise on their claim for damages but that both claims were rejected because the court found that the properties in litigation belonged to appellee. In fact, the court *a quo* dismissed their complaint. And while it is true that this decision was partly modified by the Court of Appeals, it said nothing of appellants' claim for damages although it may be gleaned that its dismissal by the court *a quo* has been implicitly affirmed. Indeed, as restated by the Court of Appeals, one of the errors assigned by appellants to the court *a quo* was "in not awarding them damages for the use and possession of their portions of land by Maglinti," but this notwithstanding, the Court of Appeals passed up the matter *sub-silencio*. And this decision has become final because of appellants' failure to file a petition for reconsideration. This matter, therefore, is now closed and the same can no longer be revived without doing violence to the principle of *res judicata*.

It is true that in the new complaint for partition appellants reiterated the same claim for damages and that in the written stipulation submitted by the parties they included a clause stating "that whatever claims the parties have against each other will be reserved for further determination of this Court," but this is now of no moment considering the objection interposed thereto by counsel for appellee based on *res judicata*. The above reservation may not necessarily refer to the claim for damages which had already been litigated in the former case, but to others not included therein, such as those that are covered by the receivership established in civil case No. 1142. Indeed, the fruits of the properties which were placed under receivership are matters that should still be clarified in view of the pendency of the partition proceeding. But this matter cannot now be looked into but should be threshed out in the aforesaid case.

Wherefore, the order appealed from is affirmed, with costs against appellants.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B, L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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