

**TEODORA DUMANDAN GUIRA, IN HER NAME AND
ATTORNEY-IN-FACT OF EUSTAQUIO R. DUMANDAN, JR., AND
REYNALDO DUMANDAN, PETITIONERS, VS. JOSE MA. P. MARFORI,
ALEJANDRO, ALEJANDRO P. MARF...**

Ponente: PEREZ, J.

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PEREZ, J.:

Before Us is a petition for annulment of judgment with application for issuance of a temporary restraining order and/or writ of preliminary injunction[1] of the final and executory Decision[2] dated 18 October 2006 of the Regional Trial Court, Branch 11 of Davao City in Civil Case No. 31,109-05 affirming the 21 July 2005 Decision[3] of the Municipal Trial Court in Cities, Branch 6 of Davao City, in Civil Cases Nos. 18,187-F-2005 commanding Romulo R. Dumandan to surrender possession and remove his improvements on the property found at Datu Bago, Barangay 5-A Bankerohan, Davao City.

Preliminary matters.

The action on the prayer for issuance of a temporary restraining order and/or writ of preliminary injunction was held in abeyance pending the compliance by the parties to Our directives as stated in a Resolution[4] dated 22 August 2014, directing petitioners to rectify infirmities in their petition and for private respondents to file a Comment on petitioners prayer for temporary restraining order and/or writ of preliminary injunction, to which petitioners may file a Reply.

Accordingly, on 10 October 2014, petitioners filed their Compliance[5] to the abovementioned directive, which is duly noted by this Court.

Likewise, We note Private Respondent's Comment to Petitioner's Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction with Motion to Dismiss Petition for Annulment of Judgment[6] filed by private respondents on 13 October 2014, to which petitioners failed to file a Reply as shown by records. With this, We deem petitioners to have waived their right to file their Reply.

The Petition for Annulment of Final Judgment.

We find no substantial merit in the petition and hereby rules to dismiss it outright.

In *Pinasukan Seafood House v. Far East Bank and Trust Company* citing *Dare Adventure Farm Corporation v. Court of Appeals*,[7] the Supreme Court explained the nature of the exceptional equitable remedy of annulment of judgment or final order:

A petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud. Yet, the remedy, being exceptional in character, is not allowed to be so easily and readily abused by parties aggrieved by the final judgments, orders or resolutions. The Court has thus instituted safeguards by limiting the grounds for the

annulment to lack of jurisdiction and extrinsic fraud, and by prescribing in Section 1 of Rule 47 of the Rules of Court that the petitioner should show that the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper. (Emphasis and underscoring supplied)

Failure to implead an indispensable party results in lack of jurisdiction over the person of said party.⁸ The absence of the indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.⁹ An indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had.^[10]

In an action to declare a judgment void for lack of jurisdiction over the person or subject matter, only evidence found in the record of the case can justify the annulment.^[11]

In the case at bar, petitioners raised extraneous matters not found in the records and failed to make out a case for annulment of judgment based on lack of jurisdiction.

Basically, petitioners alleged that they are co-owners pro-indiviso of the building to be removed from private respondents' property by virtue of the assailed RTC decision; that private respondents failed to implead them in their complaint for ejectment^[12] before the MTCC; that as co-owners of the building being the children of the late Apolinaria Dumandan, they are indispensable parties to the case and the failure to implead them renders the MTCC and RTC decision null and void for lack of jurisdiction over their person.

In support of their main argument, petitioners posit that there is documentary evidence in the case record, which if carefully examined by the trial court would readily reveal that there were indispensable parties that were not impleaded.

The said documents are as follows: 1.) The complaint^[13] and the notices to pay rentals;^[14] 2) Appellant's Appeal Memorandum of Romulo R. Dumandan;^[15] and 3.) the assailed RTC decision dated 18 October 2006.^[16]

Petitioners submit that when the complaint stated that a certain "A. Dumandan" received the first and second notices to pay rental for the subject property, private respondents and the trial court should have known that the building was owned by that certain "A. Dumandan," who allegedly was petitioners' mother, not only by Romulo R. Dumandan who was the only party sued in the case below.^[17]

We are not persuaded.

The mere fact that "A. Dumandan" received the notices to pay rentals, which on their face are addressed to Romulo R. Dumandan does not credibly suggest that "A. Dumandan" is the owner or co-owner of the building erected on private respondents land. Also it is not certain that "A. Dumandan" is, in fact, Apolinaria Dumandan, petitioners' mother.

Petitioners also draw attention to the first paragraph of the statement of facts in Appellant's Appeal Memorandum of Romulo R. Dumandan to prove their co-ownership of the building,^[18] which reads:

"The defendant-appellant's (hereafter) parents settled on the disputed lot in 1956 and it was on the same lot that appellant was born on January 17, 1963, and his family has been in possession was disturbed by herein plaintiff-appellees (appellees) sometime in 2002."

This submission holds no water. Nothing from the above-quoted statement shows that petitioners were offsprings of Estaquio and Apolinaria Dumandan. The statement is likewise void of evidence that petitioners are Romulo's

siblings implying their being co-owners of the building.

Finally, another alleged proof of co-ownership is the statement in the assailed RTC Decision, which reads:

“Defendants claim that plaintiff hired goons to demolish the house of their neighbors whose predecessors (of their neighbors) had been residing in the premises since time immemorial. Thus, for fear that they would be subjected to the same fate, they entered into a lease contract with plaintiff.”

According to petitioners, when the quoted statement are taken together with that in the Appellant’s Memoranda, they would be sufficient to make the trial court aware that there were co-owners not impleaded in the original ejectment case, thus, it should have held its hand and not render judgment until petitioners were impleaded.[19] It is difficult, however, to reach this conclusion by a mere reading of the above text.

To further support the petition, and to prove that they are heirs of Apolinaria and Estaquio Dumandan and therefore co-owners of the building, petitioners attached their birth certificates[20] as well as repairs done on the building to this instant petition. But this Court cannot consider the evidentiary value of these documents seeing light for the first time in this petition. The rule for annulment of decision or final judgment is clear and express when it prohibits the presentation of evidence not found in the records of these case. Otherwise the parties will find themselves re-litigating these issues again.

The Supreme Court in “In Re JOAQUIN T. BORRAMEO, Ex Rel. Cebu City Chapter of the Integrated Bar of the Philippines”[21] stressed the essential need to end litigation at some point:

“It is withal of the essence of the judicial function that at some point, litigation must end. Hence, after the procedures and processes for lawsuits have been undergone, and the modes of review set by law have been exhausted, or terminated, no further ventilation of the same subject matter is allowed. To be sure, there may be, on the part of the losing parties, continuing disagreement with the verdict, and the conclusions therein embodied. This is of no moment, indeed, is to be expected; but, it is not their will, but the Court’s, which must prevail; and, to repeat, public policy demands that at some definite time, the issues must be laid to rest and the court’s dispositions thereon accorded absolute finality.”

IN VIEW OF THE FOREGOING, the instant Petition is DISMISSED for lack of substantial merit.

SO ORDERED.

Camello, J., Chairperson, and Inting, JJ., concur.

[1] Rollo, pp. 2-16.

[2] Rollo, pp. 122-125.

[3] Rollo, pp. 26-36.

[4] Rollo, pp. 101-102.

[5] Rollo, pp. 120-126.

[6] Rollo, pp. 103-112.

[7] G.R. No. 159926, 20 January 2014

[8] Arcelona v. Court of Appeals, G.R. No. 102900, 02 October 1997.

[9] Id.

[10] Id. citing Servicewide Specialists, Incorporated v. Court of Appeals, 251 SCRA 70.

[11] Oscar M. Herrera, Remedial Law Volume II, 2007 Edition, p. 815.

[12] Rollo, pp.44-50.

[13] Id.

[14] Rollo, pp. 82-83.

[15] Rollo, pp. 86-94.

[16] Id. see note 2.

[17] Rollo, p. 10.

[18] Rollo, p. 11.

[19] Id.

[20] Rollo, pp. 39-39 a-c.

[21] A.M. No. 93-7-696-0, 21 February 1995

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