

**AGAPITO SUPIO, BRIGIDA SUPIO, ASSISTED BY HER HUSBAND
IGMEDIO OSORIO; MARCELINA SUPIO, ASSISTED BY HER HUSBAND
JOSE GERPRIO; GAUDIOSA GAVORO, ASSISTED BY HER HUSBAND
LUCIO EYAP;...**

G.R. No. L-27210. June 29, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the decision of the Court of First Instance of Negros Occidental in its Civil Case No. 7731, dismissing appellants' action, as holders of "reconstituted" Transfer Certificate of Title No. 41323 of the Registry of Deeds for Negros Occidental, for partition, upon the ground that they cannot be considered as owners in common with appellees of the land covered by said title, Lot No. 915 of the cadastral survey of Hinigaran, Negros Occidental, in view of the existence of a Torrens Title (O.C.T. 15502), covering the same lot issued in the names exclusively of the appellees and which does not appear to have been ever cancelled, and, therefore, they are not entitled to ask for partition thereof.

It appears that the court a quo rendered its appealed decision on the basis of the following:

"STIPULATION OF FACTS

"Come now the plaintiffs and the defendants, by their respective undersigned attorneys, and to this Hon. Court, respectfully submit the following stipulation of Facts, to wit:

"1. That the herein parties are first cousins, uncles and aunts, nephews and nieces, their common ancestor being the now deceased Aniceto Gicano;

"2. That, believing that they are co-owners of Lot No. 915 of Hinigaran Cadastre, Hinigaran, Negros Occidental, plaintiffs filed a petition with this Court, for the judicial reconstitution of the Original Certificate of Title covering this lot in the names of the 'heirs of Aniceto Gicano', which petition, after due hearing, was granted on April 24, 1965; that subsequent thereto, or on July 6, 1965, plaintiffs filed in the same cadastral proceedings, a petition for the cancellation of the same title and for the issuance in lieu thereof, of a transfer title in the names of all the said 'heirs of Aniceto Gicano' who are the herein parties; and that the said petition was granted on September 28, 1965;

"3. That, upon learning of the above proceedings, the defendants on October 28, 1965 filed a petition for relief under Rule 38 of the Rules of Court against the aforesaid two Orders (for reconstitution and cancellation of title), which petition has, for its principal ground, the fact that the only and existing title covering this lot is Original Certificate of Title No. 15502 in the names of the defendants (Irene Gicano 3/6 shares; Bernardino Garde, 1/6 share; Maria Garde, 1/6 share, and Gaudencio Garde, 1/6 share) pro-indiviso and to the exclusion of the herein plaintiffs; that said petition for relief is pending, till now, in the same cadastral proceedings;

"4. That on November 15, 1965, plaintiffs filed this present case for 'Partition and Accounting' in answer to which defendants disclosed the above facts supported by documentary evidence especial-ly the existing and

uncancelled Original Certificate of Title No. 15502 covering this lot in defendants' sole and exclusive names and to the exclusion of the plaintiffs;

"5. That the plaintiffs and the defendants are in possession of the subject lot, with the defendants actually exercising control of the same. The land taxes were partly paid by the plaintiffs and the rest and mostly by the defendants;

"6. That the herein parties hereby waive their respective MONETARY CLAIMS against each other.

"Respectfully submitted.

"Bacolod City, Philippines, August 3, 1966.

(SGD.) JOSE R. EDIS
Attorney for the plaintiffs
Bacolod City

(SGD.) JOSE Y. HILADO
Attorney for the Defendants
Bacolod City"

confirmed subsequently thus:

"At the pre-trial of this case the defendants presented Original Certificate of Title No. 15502 covering Lot No. 915 of the Cadastral Survey of Hinigaran issued at Manila on the 8th day of July 1922 by the Chief of the former General Land Registration Office. This Original Certificate of Title shows that the registered owners of said lot are the herein defendants and their mother Irene Gicano. The same certificate of title stands uncanceled until now, and its authenticity was admitted by counsel for the plaintiffs. On the other hand, the plaintiffs also presented at the pre-trial Transfer Certificate of Title No. T-41323 covering the same Lot No. 915 of the Cadastral Survey of Hinigaran issued by the Register of Deeds for the province of Negros Occidental on September 29, 1965. This Transfer Certificate of Title was issued in the names of the plaintiffs and the defendants."

Importantly, however, the record on appeal reveals that in appellees' answer with counterclaim it is alleged as affirmative defenses:

"1. That during the cadastral hearing of the lot in question in the early 'twenties' or later 'teens,' plaintiffs and defendants were the adverse claim-ants to this lot;

"2. That while it is true that at one time the cadastral court 'adjudicated' this lot to the 'Heirs of Aniceto Gicano,' said 'adjudication' was nevertheless, upon timely presentation of a petition to re-open filed by the defendants, REVOKED and instead the Hon. Court awarded the WHOLE of the lot in question EXCLUSIVELY to the herein defendants in the proportion or share stated in our answer to paragraph '2' hereof. Plaintiffs KNEW of this fact all the time as evidenced by their having taken an appeal to the Hon. Supreme Court of the Philippines, which latter court, in a decision dated May 17, 1922. AFFIRMED en toto the judgment of the court below adjudicating the WHOLE of the lot in question EXCLUSIVELY in the names of the herein defendants and their mother copy of the decision of the Hon. Supreme Court being hereto attached and made integral part of this answer as Annex '2';

3. That it was this decision of the Hon. Supreme Court which was made the basis for the issuance in favor of the herein defendants of ORIGINAL CERTIFICATE OF TITLE, OCT NO. 15502 herein accompanying as Annex '1';"

and by way of counterclaim:

"a. That plaintiffs have MALICIOUSLY filed this complaint, knowing fully well that they have no cause of action whatever; that they have filed the same with no other purpose than to harass and embarrass and force the herein defendants to incur unnecessary expenses in the defense of their rights.

"b. That despite the fact that the 'judicial reconstitution' of the non-existent title they alleged to have had over this lot, made by and thru willful misrepresentation of facts; despite the presentation by the herein defendants of a petition for Relief under Rule 38 of the Rules of Court in the same Cadastral Case where said 'order' was secured, for the setting aside and annulment of said order; and despite pendency of this matter before the Honorable Judge who issued said 'order' of reconstitution, plaintiffs insisted and persisted in MALICIOUSLY and FRAUDULENTLY securing an immediate transfer in the names of the alleged 'co-owners' of this lot even before the finality of the 'order' granting them such authority, against which defendants have likewise seasonably presented the necessary Motion for Reconsideration of the same, aggravated by their (plaintiffs) having filed this absolutely groundless action for 'partition' of this property over which they have no right whatever to participate;"

whereas the only issues raised by appellants in their reply as regards these allegations were:

"3. That plaintiffs cannot form a belief as to the veracity and authenticity of the documents, Annexes 1, 2 and 3 to the answer, as on its face they do not appear or pretend to be verified copies of the original of any official record in the custody of an office or official where the supposed documents should repose or deposited, and therefore deny the same;

* * * * *

"8. As to Par. b. Plaintiffs specifically deny the allegation of fraud in accordance with the truth being asserted in the preceding paragraphs. Plaintiffs were not aware of the alleged legal steps taken by the defendants UNTIL the present counsel consulted the records of the cadastral proceedings after receiving the answer. The said actions of the defendants have not been acted upon and no legal notices have as yet been sent to the former counsel of the plaintiffs directly. Furthermore, the present action is not inconsistent with the firm(ed) belief of the plaintiffs that they are co-owners of the land in question and assuming or granting that the land in question is in the name of the defendants and their mother, Irene Gicano, the law does not prevent them from asserting their right which they honestly believe to be theirs as stated above;"

Resolving what it considered to be the sole legal issue before it, the trial court ruled thus:

"It appearing that the issuance of Transfer Certificate of Title No. T-41323 for the lot in question in the names of the plaintiffs was effected while the Original Certificate of Title for the same lot in the names of the defendants was still subsisting, it is obvious that said Transfer Certificate of Title in the names of the plaintiffs must be considered null and void. Hence, the plaintiffs cannot be regarded as owners in common with the defendants of Lot No. 915 of the Cadastral Survey of Hinigaran, and, therefore, they are not entitled to ask for the partition of said lot.

"WHEREFORE, judgment is hereby rendered ordering the dismissal of the complaint, with costs against the plaintiffs."

Against this judgment, appellants now claim:

"I. THE LOWER COURT ERRED IN DECLARING AS NULL AND VOID TRANSFER CERTIFICATE OF TITLE NO. T-41323 COVERING LOT NO. 915 OF THE HINIGARAN, NEGROS OCCIDENTAL CADASTRE.

"II. THE LOWER COURT ERRED IN NOT HOLDING THAT THE STATED TRANSFER CERTIFICATE OF TITLE IS THE ONLY VALID AND EXISTING TITLE OF RECORD COVERING THE STATED LOT.

"III. THE LOWER COURT ERRED IN HOLDING THAT THE PLAINTIFFS CANNOT BE REGARDED AS OWNERS IN COMMON OF THE PROPERTY IN QUESTION AND THEREFORE CANNOT ASK FOR PARTITION."

Upon the foregoing premises, it is the Court's considered view that the decision appealed from should be affirmed.

It is quite clear to Us that if appellants' action is not barred by res adjudicata, there is, at least, another proceeding, still pending, the nature of which demands that it should have precedence over the present suit. As can be seen in the pleadings aforequoted, there were allegations in appellees' answer in the court below to the effect that the institution of appellants' action was preceded by the filing by appellees with the cadastral court of a petition for relief from the order by virtue of which the original certificate of title covering Lot 915 of the cadastral survey of Hinigaran was "reconstituted,"[1] on their representation that their original title had been lost or destroyed, apparently together with all the other records of the Land Registration Commission relative to said title, which petition is still pending unresolved by the land courts, and, what is more, that even before this incident in the land court, there had already been ventilated in the same court a previous proceeding between the same parties which culminated in a brief decision of this Supreme Court which reads:

"In cadastral case No. 13 of the Province of Occidental Negros, Lot No. 915 was ordered registered in the name of the heirs of Aniceto Gicano. The appellee, Irene Gicano, daughter of Aniceto, thereafter filed a motion for the re-opening of the case in regard to said lot No. 915, alleging that she was the sole owner of the lot. The court below granted the motion and, after receiving additional evidence, revoked its former decision, and decreed the registration of the land in favor of Irene Gicano and her children Bernardino, Maria, and Gaudencio Garde in undivided shares of varying proportions. The case is now before us upon appeal from this decision.

"The facts are fully discussed in the well-considered decision of the court below, the findings are amply supported by the evidence, and a further discussion thereof can serve no useful purpose. The appellants' Exhibit '1' is a decision in an action of forcible entry and detainer and does not constitute res adjudicata in questions of title.

"We cannot find sufficient grounds for disturbing the findings and conclusions of the court below, and the decision appealed from is therefore affirmed, with the costs of this instance against the appellants.

"Ten days after publication of decision, judgment will be entered in accordance herewith, and five days later the record will be remanded to the court below. So ordered.

"JUDGMENT AFFIRMED." (The Government of the Philippine Islands vs. Gicano, et al., R.G. No. 17653, promulgated May 17, 1922; Record, p. 88.)

Albeit defectively framed and designated, for, strictly speaking, as observed by appellants' counsel in his brief, these allegations do not clearly and directly set forth in specific legal terminology the affirmative defenses of the appellees, still they can be considered as having sufficiently placed before the Court the issue of whether or not appellants' action should be dismissed on the grounds of res adjudicata and the pendency of another action. Viewing them liberally, these allegations in appellees' answer may be considered as the putting up of the two affirmative defenses just mentioned as if the same had been specifically alleged in the manner conceived by appellants' counsel. Section 15 of Rule 6 explicitly ordains that "[a]ll pleadings shall be liberally construed so as to do substantial justice" and so, although a pleading is awkwardly drafted and may be subject to criticism with respect to incidental, particulars, it must be deemed sufficient if it fairly apprises the adverse party of the claims or contentions therein stated and does not mislead him to his surprise or injury[2] or when from the allegations therein, taken together, the matters required to be averred may be gathered.[3] In the words of Chief Justice Moran, "Rules of pleadings are intended to secure a method by which the issues may be properly laid before the

court. When those issues are already clear before the court, the deficiency in the observance of the rules should not be given undue importance. What is important is that the case be decided upon the merits and that it should not be allowed to go off on procedural points." (Moran, Comments on the Rules of Court, Vol. 1, pp. 300-301, 1970 ed., citing *Co Tiamco vs. Diaz, et al.*, 75 Phil. 672.) Hence, any of appellees' affirmative defenses maybe considered as a counterclaim and vice versa.

Accordingly, appellees' defenses of *res adjudicata* and *litis pendentia* should be sustained. The existence of the previous case decided by the Supreme Court and the issuance of the title by virtue thereof in appellees' names cannot be seriously doubted. The original of the title, O.C.T. 15502, was produced before the court and there is no pretense on the part of appellants that it is not genuine. Copy of said title, together with a copy of the Supreme Court decision above referred to, certified by the Clerk of Court of the Court of First Instance of Negros Occidental to have been copied by him from the original in his possession, were all attached as actionable documents to the answer of appellees, and their genuineness and due execution have not been properly denied under oath in the reply of appellants, for which reason, the same must be deemed admitted pursuant to Section 8 of Rule 8, notwithstanding that, indeed, a feeble general denial of appellees' allegations in this respect appears to have been made in appellants' reply, as may be noted in the portions thereof quoted earlier herein.

As regards the pendency of the petition for relief of appellees in the land court seeking the cancellation of the "reconstituted" title now in the names of appellants as co-owners with appellees, the same is even more clearly admitted by the appellants. In the pertinent portion of their reply aforequoted, all that they claim is that appellees' petition for relief has not actually been given due course yet and that notwithstanding the fact that there is a title exclusively in the names of appellees, "the law does not prevent them (appellants) from asserting their right which they honestly believe to be theirs." In other words, the position of appellants is that although there may be such a title in the names of appellees over the land in dispute, they also have a title in which they appear to be co-owners with appellees, which cannot be attacked collaterally, and before such title is cancelled by the land court in an appropriate proceeding, they are entitled to prosecute to conclusion this action of partition.

What appellants seemingly fail to consider is that precisely, the title upon which they are relying is still hanging fire in the land court on account of the petition for relief filed therein by appellees. Overlooking already the fact that in the light of this circumstance, the issuance of the title invoked by them has yet to be explained, necessarily, the situation in which the parties find themselves calls for a determination as to which of the two proceedings, that in the land court about appellees' petition for relief or this present action of partition, should have precedence, it being evident that to allow both to proceed simultaneously would be absurd, if only because the conclusion of one court may differ from that of the other respecting the same matter. In this connection, We hold that there can hardly be any choice. The logic itself of the facts extant in the records demands that the validity of appellants' title be determined by the land court ahead of this action of partition. Section 1 of Rule 69 on Partition expressly requires that the complaint for partition must state "the nature and extent of (the) title" of the plaintiff and ultimately such title must be proven as a condition sine qua non to the grant of the remedy. Stated otherwise, any person asking for partition must show a title over the subject property in common with another person or persons before partition thereof may be ordered. Such being the case, it stands to reason that the pendency of the proceedings in the land court concerning the validity of the "reconstituted" title of appellants should constitute a bar to the present suit.

This result We have arrived at makes it unnecessary for the Court to make any specific pronouncement at this stage as to which of the two titles respectively relied upon by the parties should prevail, no matter how correct the ruling of the court a quo in this respect may appear to be. In truth, that is properly what the land court is supposed to decide when it ultimately resolves the petition for relief filed with it by appellees, albeit, to be sure, another

course of action, which perhaps is more direct is outlined by the law for the objective which appellees want to achieve. Inasmuch as the title invoked by appellants is a reconstituted title and it is not disputed that the "certificate of title considered lost or destroyed, and subsequently found or recovered (as in this case of O.C.T. No. 15502), is not in the name of the same person in whose favor the reconstituted certificate of title (in this case, T.C.T. 41323) has been issued," there can be no doubt that appellees may avail of Section 19, of Republic Act 26 which provides as follows:

"SEC. 19. If the certificate of title considered lost or destroyed, and subsequently found or recovered, is not in the name of the same person in whose favor the reconstituted certificate of title has been issued, the register of deeds should bring the matter to the attention of the proper Court of First Instance, which, after due notice and hearing, shall order the cancellation of the reconstituted certificate of title and render, with respect to the memoranda of new liens or encumbrances, if any, made on the reconstituted certificate of title, after its reconstitution, such judgment as justice and equity may require: Provided, however, That, if the reconstituted certificate of title has been cancelled by virtue of any deed or instrument, whether voluntary or involuntary or by an order of the court, and a new certificate of title has been issued, the procedure prescribed above with respect to memoranda of new liens or encumbrances made on the reconstituted certificate of title, after its reconstitution, shall be followed with respect to the new certificate of title, and to such new liens or encumbrances, if any, as may have been made on the latter, after the issuance thereof."

In any event, the action of partition of appellants must give way to the incident in the land court for the determination of which of the two titles herein involved is the superior one. Even if We were to agree with appellants that their title must be recognized until after it has been cancelled in the appropriate proceeding in the land court, still it would not follow that their action of partition can proceed. The least that the court a quo could have done instead of dismissing appellants' complaint for partition was to suspend all proceedings therein until the incident in the land court shall have been finally terminated, thereby avoiding the contingency of the partition it might order being set aside should the land court ultimately order that the appellants' "reconstituted" title be cancelled.

WHEREFORE , the judgment appealed from is affirmed, without passing on which of the two titles should prevail, which point should be resolved by the land court in which appellee's petition for relief is pending or to which the Register of Deeds may refer the matter of the cancellation of appellants' "reconstituted" title pursuant to Section 19 of Republic Act 26. Costs against appellants.

Reyes, J.B.L., Makalintal, Zaldivar, Fernando, and Antonio, JJ., concur.

Teehankee, J., files a separate qualified concurrence.

Makasiar, J., files a separate concurring opinion.

Concepcion, C.J., and Castro, J., concurs in the separate concurring opinions of Justices Teehankee and Makasiar.

[1] This reconstituted original certificate of title was later cancelled by virtue of a subsequent order of the same cadastral court, and in lieu thereof Transfer Certificate of Title No. T-41323 now relied upon by appellants was issued. (See par. 2, Stipulation of Facts, earlier quoted.)

[2] *Lizarraga Hermanos vs. Yap Tico*, 24 Phil. 504; *Fressel vs. Mariano Uy Chaco*, 34 Phil. 122.

[3] *Bato Ali vs. Court of First Instance of Lanao*, 80 Phil. 506.

CONCURRING OPINION

TEEHANKEE, J.:

I agree with Mr. Justice Makasiar that the judgment appealed from should be affirmed unqualifiedly, and that the question of "which of the two titles should prevail" should not be left hanging.

The main opinion does affirm the appealed judgment, which ordered the dismissal of the plaintiffs-appellants' complaint for partition against defendants-appellees on the express ground that "the original certificate of title for the same lot in the names of the defendants was still subsisting (and) it is obvious that (the "reconstituted") transfer certificate of title in the names of the plaintiffs (jointly with defendants) must be considered null and void,"[1] and consequently, plaintiffs have no cause of action against defendants for partition of the lot in question.

The main opinion further expressly sustains defendants-appellees' defense of res adjudicata[2] by virtue of this Court's decision of May 17, 1922 in R.G. No. 17653 upholding defendants' and their predecessor's exclusive title and ownership over the said lot.[3]

While defendants still have a pending action in the land registration court for relief and for cancellation of the "reconstituted" title wrongfully issued in the names of both plaintiffs and defendants, such action should now be held to be moot with this Court's affirmance of the appealed judgment, which resolved ahead the same issue and has already squarely declared the nullity of said "reconstituted" title and upheld the uncanceled original title issued exclusively in the name of defendants-appellants as clearly the only valid and existing title to the property.

I therefore vote for the unqualified affirmance of the appealed judgment.

[1] At pp. 120-121 main opinion; notes in parentheses emphasis supplied.

[2] Idem, at page 124.

[3] Idem, at pages 122-123.

CONCURRING OPINION

MAKASIAR, J.:

By reason of the principle of resjudicata, WE cannot review or re-open Our decision of May 17, 1922 in Government vs. Gicano, et al.:[1] much less can the trial court or the cadastral court before which is pending appellees' petition for relief from the orders of the land court for reconstitution and cancellation of O.C.T., as well as for the issuance of T.C.T. No. T-41323 in favor of appellants. Hence, O.C.T. No. 15502 issued in favor of appellees covering Lot 915 of the Hinigaran Cadastre pursuant to Our 1922 decision should be categorically re-affirmed as the only valid title and should prevail, so that the cadastral court will have no alternative but to grant appellees' petition for relief and accordingly set aside its orders for reconstitution and cancellation of O.C.T. and direct the cancellation of T.C.T. No. 41323, thus finally putting an end to all questions or disputes over the ownership of said Lot 915 and thereby saving the appellees further expense and anxiety. The dispositive portion of the main opinion penned by Mr. Justice Barredo, leaving it to the land court to decide which title should prevail, lends itself to protracting the litigation; because incidents may arise or may be provoked during the hearing on the petition for relief, which incidents may require Our resolution, depending upon the resourcefulness of appellants or their counsel, before the land court could decide the main issue.

[1] G.R. No. 17653.

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