

**TEODULO DOMINGUEZ, ET AL., PLAINTIFFS AND APPELLANTS, VS.
ROMAN B. DE JESUS, ET AL., DEFENDANTS AND APPELLEES.***G.R. No. L-15089. April 28, 1962*

Ponente: BAUTISTA ANGELO, J.

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On July 18, 1951, Roman B. de Jesus, et al. filed a complaint against Teodulo Dominguez, et al. before the Court of First Instance of Tarlac praying that they be declared absolute owners of certain properties situated in the municipality of Capas of said province (Civil Case No. 583). The court was then presided over by Judge Filomeno B. Ibañez. After trial on the merits, the case was submitted to said judge for decision. However, before said judge could prepare and decide the case he was transferred to the province of Zambales where he prepared and signed the decision on March 2, 1953 and sent it to the clerk of court of Tarlac, having been received by him on March 6, 1953.

On June 24, 1956, Teodulo Dominguez et al. filed a motion for reconsideration contending that the decision rendered by Judge Filomeno B. Ibañez was null and void because at the time it was promulgated he was no longer the judge of the Court of First Instance of Tarlac he having already been transferred to the Court of First Instance of Zambales by virtue of an administrative order issued by the Secretary of Justice on January 6, 1953. After considering the merits of the motion, the court denied it for lack of merit. No appeal was taken either from the order denying the motion nor from the decision of the court on the merits, so the decision became final and executory on April 11, 1953.

On November 21, 1956, Teodulo Dominguez, et al. filed another action against the same defendants before the same court for the purpose of securing a declaration of nullity of the decision rendered by Judge Ibañez (Civil Case No. 3086). Defendants filed a motion to dismiss on the ground that the complaint states no cause of action since the issue relative to the alleged nullity of the decision of Judge Ibañez has already been raised and passed upon by the court in Case No. 583. Acting favorably on the motion, the court dismissed the complaint, sustaining the allegations of defendants. Again, from the order dismissing the complaint, no appeal was taken by the plaintiffs as in the previous case.

On December 7, 1957, Teodulo Dominguez, et al. filed a third action against the same defendants before the same court wherein they sought the same declaration of nullity of the decision predicated on the same grounds already alleged in the two previous cases (Civil Case No. 3196). Defendants again filed a motion to dismiss on the ground that the cause of action alleged therein being the same as the one pleaded in the previous complaints is already barred by the principle of *res judicata*. The court sustained the motion and the case was dismissed. This time plaintiffs have appealed.

It appears that plaintiffs raised the issue relative to the validity of the decision of Judge Ibañez in Civil Case No. 583 when they filed a motion for reconsideration, but that their argument was disregarded for lack of merit. They did not appeal from the ruling, and instead filed another case wherein they raised the same issue. Again, the case

was decided against them on the ground of res judicata. And not content with these two adverse rulings, plaintiffs filed a third action wherein they reiterated the same issue. The court again disregarded their plea on the same ground. And in this appeal they assigned as error not only the dismissal of the case on the ground of res judicata but the failure of the court a quo in not squarely deciding the issue relative to the validity of the decision.

The contention cannot be sustained, for upon the facts appearing in the record it clearly appears that appellants are now barred from raising the issue of nullity after the same has been passed upon by the court on their motion for reconsideration in Civil Case No. 583. If appellants were not agreeable to this ruling what they should have done was to appeal therefrom and not file a new case. But what this record discloses is that the issue was pleaded by appellants not only once but thrice and each time the court decided it adversely to them. It, therefore, appears that appellants are barred from raising it now under the principle of res judicata. As a consequence, we are now prevented, much to our regret, from passing upon the validity of the decision of Judge Ibañez.

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

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

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