LINA P. VILLAROSA REPRESENTED BY HER AIF ISIDRO I. VILLAROSA, PLAINTIFF-APPELLEE, VS. SPOUSES GODOFREDO BICO, JR., MEDALYN C. BICO AND LORETO CAUNTOY, DEFENDANTS-APPELLANTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal from the Decision[2] dated July 10, 2006 by the Regional Trial Court, 6[th] Judicial Region, Branch 62, Bago City in Civil Case No. 1038 for Recovery of Possession of Real Property and Damages.

The Factual Antecedents

The spouses Isidro Villarosa and Lina Patrimonio Villarosa owned a parcel of lot denominated as Lot 1110-R, registered as TCT No. T-18484 situated at Barrio Talotog, Bago City, Negros Occidental with an area of One Hundred Fifty Three Thousand Two Hundred Thirty [153,230] square meters. Prior to the subdivision of Lot 1110-R, on February 28, 1985 the spouses executed a Leasehold Rights Agreement over a 15 hectare portion of said lot in favor of their son, Victor P. Villarosa [Victor]. The leasehold agreement provides in part, thus:

> "LEASEHOLD AGREEMENT
>
> KNOW ALL MEN BY THESE PRESENTS:
>
> This Leasehold Rights Agreement made and executed in the City of Bacolod by and between:
>
> ISIDRO R. VILLAROSA, Filipino, married to Lina P. Villarosa, of legal age and resident of Sum-ag, Bacolod City, hereinafter referred to as the FIRST PARTY
>
> -AND-
>
> VICTOR P. VILLAROSA, Filipino, married to Victoria Infante, of legal age and resident of Sum-ag, Bacolod City, hereinafter referred to as the SECOND PARTY:
>
> WITNESSETH:
>
> That the FIRST PARTY is the registered owner of the described property:
>
> "Lot No. 1110, located at Bo.Dulao, Bago City containing an area of 97 has. more or less."
>
> That the FIRST PARTY agree to SECOND PARTY LEASEHOLD a portion of his abovementioned property containing an area of 15.20 has. more or less, particularly described in ANNEX Parcellary plan.
>
> TERMS AND CONDITIONS
>
> A. That the SECOND PARTY will pay a rental and or share of (5%) FIVE PERCENT of his NET produce of palay to the SECOND PARTY. (Net produce is after deducting cost of production).

> B. That the period of leasehold is as long as the SECOND PARTY pay his due rental to the FIRST PARTY and or any of his assign of the above described property.
>
> C. This agreement entitle both parties to assign to their heirs and assign, and SECOND PARTY will not protest any of the encumbrances against the FIRST PARTY."[3]

On July 6, 1987, Victor executed a document denominated as "Deed of Sale of Rights and Interest" in favor of Zenaida Melita Diego over a seven [7] hectare portion of Lot No. 1110-R. The pertinent portion of their agreement reads:

> "1. That the FIRST PARTY (Victor P. Villarosa) is the owner/heir of a portion of Lot No. 1110 consisting of (16) Has. more or less.
>
> 2. That the FIRST PARTY/SECOND PARTY hereby agreed that (7) Has. shall be assigned to the SECOND PARTY (Zenaida Melita Diego) for cultivation, supervision for whatever agricultural products the SECOND PARTY may wish to produce.
>
> 3. For consideration of 5 cvs./Ha. or its equivalent in Pesos the FIRST PARTY hereby waive, sell all his rights and interest over the said area of (7) has. more or less to the SECOND PARTY, her heirs/ or assigns."[4]

On September 7, 1993, Zenaida Melita Diego [Diego] sold her entire rights over Lot 1110-R to spouses Godofredo Bico Jr. and Medalyn Bico, which sale was financed by Loreto Cauntoy, the father of Medalyn Bico.[5] The spouses Bico then started to possess and cultivate the said land.

Later on Lot 1110-R was subdivided into four [4] lots. Lot 1110-R-1 and Lot 1110-R-3 were registered in the name of Elsie Golvio while Lot 1110-R-2 and Lot 1110-R-4 were registered in the name of Isidro Villarosa.[6] The subject of this case is Lot 1110-R-4, registered as TCT No. T-26358 in the name of Isidro R. Villarosa with an area of Eighty Thousand Five Hundred Forty [80,540] square meters.

Sometime in 1998, Lina demanded from defendants-appellants Bico the possession of the subject lot because from the time they were in possession thereof, they have not paid lease rentals to her.

Defendants-appellants Bico refused to surrender the subject lot because they were in possession thereof under the concept of ownership because while it may be true that Diego leased the subject lot sometime in 1987, the lease ceased when Victor signed the Deed of Agreement with Diego, dated July 18, 1990, whereby he effectively sold his share of Lot 1110-R to Diego, the stipulations are as follows:

> "1. That this is to confirm our Deed of Sale of Rights and Interest of (7) Has. situated in Dulao, Bago City particularly described a portion of Lot No. 1110.
>
> 2. That said consideration of above sale is P560,000.00 in cash/kind received by the First Party. That the Second Party knowingly acknowledged that said property is mortgage (sic) in the Bank particularly P.N.B. That Second Party willingly pay the First Party without future claim from the First Party. This Deed of Agreement serve (sic) as a receipt of First Party of payment of the Total Rights and Interest.
>
> 3. That the First Party shall execute other pertinent papers needed by the Second Party to avail [of] the CARL when needed by the Second Party.
>
> xxxxx"[7]

Consequently, when Diego sold to defendants-appellants Bico a portion of Lot 1110-R on September 6, 1993, the former did so in the concept of an owner. Moreover, Lina was not kept in the dark with respect to the said transaction as can be shown by her written conformity in a letter to PNB stating that Loreto Cauntoy wishes to assume her obligations with PNB and in fact already paid a total of P371,261.77.

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The RTC in deciding for plaintiff-appellee ruled that the Deed of Sale of Rights and Interest dated July 18, 1990 entered into by Victor and Diego, readily shows that the object of the sale is the leasehold right of Victor and not the land itself or the right over the land. Consequently, Diego had not acquired any valid title or ownership over the property but rather what she acquired was only the leasehold rights of Victor. It was thus clear that there was no valid conveyance of the property to defendants-appellants. The dispositive portion of the RTC's Decision8 dated July 10, 2006, reads:

> "WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows.
>
> 1. Ordering the defendants and any person or persons claiming any right or authority under them to vacate Lot No. 1110-R situated at Barangay Dulao, Bago City and to return possession of said lot [to] the plaintiff;
>
> 2. Ordering defendants to pay the plaintiff the accrued rents of Ten Thousand Pesos (P10,000.00) per hectare per year from September, 1993 up to the time the defendants actually vacate the property;
>
> 3. Ordering the defendants to pay plaintiff the sum of P20,000.00 as attorney's fees; and to pay the costs of the suit.
>
> SO ORDERED."

Hence, defendants-appellants come to Us on appeal with the following assignment of errors, to wit:

> "I. WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT, BRANCH 62, VI JUDICIAL REGION, BAGO CITY, HAD VALIDLY ACQUIRED JURISDICTION OVER THE INSTANT CASE OF RECOVERY OF POSSESSION DESPITE THE FACT THAT THERE WAS NO ALLEGATION MADE AS TO THE ASSESSED VALUE OF THE SUBJECT PROPERTY IN THE COMPLAINT;
>
> II. WHETHER OR NOT THE HONORABLE LOWER COURT A QUO ERRED IN MAKING A FINDING IN ITS DECISION DATED JULY 10, 2006, THAT DEFENDANTS DID NOT POSSESS THE SUBJECT PROPERTY IN THE CONCEPT OF AN OWNER AND THAT DEFENDANTS' POSSESSION DID NOT SPRING FROM OWNERSHIP AS THEIR POSSESSION WAS DERIVED FROM A LESSEE, WHEN OVERWHELMING EVIDENCE SUPPORT THE FACT THAT THERE WAS INDEED CONVEYANCE ON THE PART OF PLAINTIFF THEN REPRESENTATIVE, VICTOR P. VILLAROSA, WHICH WAS ALSO CONFIRMED BY PLAINTIFF HERSELF, IN FAVOR OF ZENAIDA MALITA DIEGO FROM WHICH DEFENDANTS DERIVED THEIR RIGHTS AND INTERESTS IN THE SUBJECT PROPERTY;
>
> III. WHETHER OR NOT THE HONORABLE LOWER COURT A QUO ERRED IN ITS DECISION DATED JULY 10, 2006, WHEN IT ORDERED THE DEFENDANTS AND ANY PERSON OR PERSONS CLAIMING ANY RIGHT OF AUTHORITY UNDER THEM TO VACATE LOT NO. 1110-R SITUATED AT BARANGAY DULAO, BAGO CITY AND RETURN POSSESSION OF SAID LOT TO THE PLAINTIFF;
>
> IV. WHETHER OR NOT THE HONORABLE LOWER COURT A QUO GRAVELY ERRED IN ITS DECISION DATED JULY 10, 2006, WHEN IT ORDERED THE DEFENDANTS TO PAY THE PLAINTIFF THE ACCRUED RENTS OF TEN THOUSAND PESOS (P10,000.00) PER HECTARE PER YEAR FROM SEPTEMBER, 1993 UP TO THE TIME DEFENDANTS ACTUALLY VACATE THE PROPERTY; AND
>
> V. WHETHER OR NOT THE HONORABLE LOWER COURT A QUO GRAVELY ERRED IN ITS DECISION DATED JULY 10, 2006, WHEN IT ORDERED THE DEFENDANTS TO PAY PLAINTIFF THE SUM OF TWENTY THOUSAND PESOS (P20,000.00) AS ATTORNEY'S FEES AND TO PAY THE COST OF THE SUIT."[9]

Before the resolution of this appeal, Victor P. Villarosa died on July 2, 2012,[10] and Lina P. Villarosa appointed a new attorney-in-fact Isidro I. Villarosa.[11]

Our Ruling

Defendants-appellants in this appeal questioned the jurisdiction of the RTC, admittedly for the first time, because the complaint failed to state the assessed value of the property despite the fact that when the said complaint was filed, Republic Act 7691[12] was already in effect. There having been no jurisdiction conferred on the court, a party could at any stage of the proceedings, even on appeal assail the jurisdiction of the said court.

The general rule is that the jurisdiction of a court may be questioned at any stage of the proceedings. Lack of jurisdiction is one of those excepted grounds where the court may dismiss a claim or a case at any time when it appears from the pleadings or the evidence on record that any of those grounds exists, even if they were not raised in the answer or in a motion to dismiss. So that, whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Such is understandable, as this kind of jurisdiction is conferred by law and not within the courts, let alone the parties, to themselves determine or conveniently set aside.[13]

Perusal of the complaint of plaintiff-appellee readily reveal that it failed to state the assessed value of the subject lot making it ambiguous whether the RTC had jurisdiction or not. However, it is equally true as taught by the case in Tijam v. Sibonghanoy, et al.[14] that after a party had fully participated in the entire proceedings, the said party cannot be allowed to question the result as having been rendered without jurisdiction. Thus as held by the Supreme Court in “Heirs of Fernando v. De Belen[15] citing Pantranco North Express, Inc. v. Court of Appeals[16], ”participation in all stages of the case before the trial court, that included invoking its authority in asking for affirmative relief, effectively barred the respondent by estoppel from challenging the court’s jurisdiction. The Court has consistently upheld the doctrine that while jurisdiction may be assailed at any stage, a litigant who participated in the court proceedings by filing pleadings and presenting his evidence cannot later on question the trial court’s jurisdiction when judgment unfavorable to him is rendered.”

In the instant case, having fully participated in all stages of the case, and even invoking the RTC’s authority by asking for affirmative reliefs, defendants-appellants can no longer assail the jurisdiction of the said trial court. Simply put, considering the extent of their participation in the case, they are, as they should be, considered estopped from raising lack of jurisdiction as a ground for the dismissal of the action.[17]

Moreover, apart from having actively participated in all the stages of the proceeding, defendants-appellants' allegation is belied by their own answer which states that:

> “Plaintiff and her Attorney-in-Fact, inspite of their knowledge of the existence of a document denominated as “Deed of Agreement” dated July 18, 1990, wherein Victor P. Villarosa confirmed that he sold his rights and interests over the seven (7) hectares portion of Lot No. 1110 situated at Dulao, Bago City, for the amount of P560,000.00 in favor of Zenaida Melita Diego, xxxxx”[18]

Thereby showing that the value of the property was already well covered by the jurisdictional amount for cases within the jurisdiction of the RTC.[19]

To sum up the issues raised by defendants-appellants, We find that the core of the appeal is whether or not there was an alienation of the property or just the right to use thereof by Victor P. Villarosa.

We find that the alienation of the property by Victor P. Villarosa was one of sale.

The Deed of Sale of Rights and Interests dated July 18, 1990 and the Deed of Agreement likewise dated July 18,

1990 when collectively read readily reveals that sale was the intention of the parties albeit the nomenclature thereof says otherwise. Defendants-appellants state that it was their intention to purchase the subject land while Victor contends that he only intended to alienate the use of the said land. In situations like that, Section 9, Rule 130 of the Rules of Court comes into play, which provides:

> "Section 9. Evidence of written agreements. — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
>
> However, a party may present evidence to modify, explain or add to the terms of written agreement if he puts in issue in his pleading:
>
> (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
>
> (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
>
> (c) The validity of the written agreement; or
>
> (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.
>
> The term "agreement" includes wills."

Thus, as can be gleaned therefrom, the primary consideration in determining the true nature of a contract is the intention of the parties. If the words of a contract appear to contravene the evident intention of the parties, the latter shall prevail. Such intention is determined not only from the express terms of their agreement, but also from the contemporaneous and subsequent acts of the parties. The true intention of the parties in this case was sufficiently proven by defendants-appellants.[20]

To retrace the antecedents, on February 28, 1985, a Leasehold Rights Agreement was executed by the titleholder, Isidro R. Villarosa in favor of Victor P. Villarosa, the former is the latter's father. There is no doubt there that a lease was intended. However, on July 18, 1990, Victor P. Villarosa executed a Deed of Sale of Rights and Interest[21] in favor of Zenaida Melita Diego. Although the contract is denominated as such, it is readily apparent that Victor is selling the whole lot as owner/heir and not merely as a lessee thereof. Victor became a co-owner of Lot 1110-R when Isidro R. Villarosa died and although not indicated on the records the time of death of Isidro R. Villarosa, one thing is certain that when Victor executed the Deed of Sale of Rights and Interests on July 18, 1990, Isidro R. Villarosa already died because the former used "owner/heir". Thereafter, Victor's execution of Deed of Agreement[22] on that same day bolsters the conclusion that indeed sale was intended by the parties.

As can be gathered from the testimony of Zenaida Diego:

> "Q: Madam witness, do you know Lot No. 1110-R of Bago Cadastre?
> A: Yes, sir.
>
> Q: Why do you know this Lot No. 1110-R of Bago Cadastre?
> A: Because we bought a portion of that lot.
>
> Q: You stated Madam witness that you bought a portion of that lot, [from] whom did you buy or purchase said Lot 1110-R?
> A: From spouses Mr. Victor Villarosa and Victoria Villarosa.[23]
>
> xxxxx
>
> Q: You stated Madam witness that you purchased (Lot)1110-R from spouses Victor Villarosa and Victoria

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> Villarosa, was the said transaction covered by a written document?
> A: Yes, Sir. Absolutely.
>
> Q: I'm showing to you a xerox copy of a document denominated as Deed of Sale of Rights and Interests ratified on July 18, 1990. Will you please examine this if you can recognize this machine copy of a document covering the deed of sale of rights and interests of Lot 1110-R?
> A: Yes, Sir, this is the document.[24]
>
> xxxxx
>
> Q: How much is the total consideration Madam witness for the 7.5449 hectares you purchased from the portion of Lot No. 1110-R of Bago cadastre?
> A: Yes, the first portion the 7.5449 hectares we paid FIVE HUNDRED SIXTY THOUSAND (P560,000) in cash, Philippine Peso and another portion that's two (2) hectares and it has a total 9.5 hectares, we paid TWO HUNDRED ELEVEN THOUSAND SIX HUNDRED THIRTY EIGHT (P211,638.00) Pesos in cash.[25]
>
> xxxxx
>
> Q: After the defendant Victor Villarosa executed Exhibit "B" and Exhibit "C", what did you do Madam witness as a vendee of Lot No. 1110-R?
> A: We possessed of course the lot but before we bought it or that actual buying of lot we've been leasing it. Since 1987, we leased that lot already and eventually they offered to us to sell eventually we bought it so that happened (in) the year 1990 and after that, we possessed the land until 1993 and that time we sold it to Mr. Cauntoy.[26]
>
> xxxxx
>
> Q: So it is submitted that what instrument is executed was simply a deed of sale of the rights and interests?
> A: Absolutely sir, because it happened the title is mortgaged in the PNB though I want a clean title, it cannot be because it (was) mortgaged in the bank. So we executed that paper of course so that we also have a security of our rights because we're buying the property and by doing so we have it annotated (to) the title, the mother title with their consent. So that's the reason behind it."[27]

Considering that there was really a sale, the question now is to what extent of the property could Victor P. Villarosa validly alienate?

Victor P. Villarosa, as heir of Isidro R. Villarosa and co-owner of Lina P. Villarosa and his other siblings could only sell his undivided share pursuant to Article 493[28] of the Civil Code. Thus, the sale made by Victor P. Villarosa as a co-owner is not invalidated by the absence of the consent of the other co-owners. Victor P. Villarosa as a co-owner, however, has no right to sell or alienate a specific or determinate part of the thing owned in common, because such right over the thing is represented by an aliquot or ideal portion without any physical division. Nonetheless, the mere fact that the deed purports to transfer a concrete portion does not per se render the sale void. The sale is valid, but only with respect to the aliquot share of the selling co-owner. Furthermore, the sale is subject to the results of the partition upon the termination of the co-ownership.[29]

Considering that a partition was not alleged nor proven by the parties, Victor P. Villarosa could only sell his aliquot share of Lot No. 1110-R and not the specific portion thereof. If after partition the specific portion sold to Zenaida Diego was part of the share of Victor P. Villarosa, then he could keep the entire purchase price, however, when the specific portion he sold is more than his share, he should reimburse Zenaida Diego for the excess purchase thereof computed using the price per hectare they used when the sale was perfected on July 18, 1990.

Consequently, the possession of defendants-appellants spouses Godofredo Bico and Medalyn C. Bico is subject to the result of the partition by the heirs of Isidro R. Villarosa. Thus, the P10,000.00 per hectare per year reckoned

from September 1993 monetary award by the RTC becomes unnecessary and should thereby be deleted as well as the award of attorney's fees. The general rule is that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.30 We however affirm the ruling of the court in denying the plaintiff-appellee's prayer for other damages.

WHEREFORE, premises considered, the Decision dated July 10, 2006 is REVERSED and SET ASIDE. The sale in favor of Zenaida Diego is valid and effective only to the extent of Victor P. Villarosa's aliquot share in Lot No. 1110-R. Considering that the purchase price was already paid, if after partition the specific portion sold to Zenaida Diego was part of the share of Victor P. Villarosa, then he could keep the entire purchase price, however, when the specific portion he sold is more than his share, he should reimburse Zenaida Diego for the excess purchase thereof computed using the price per hectare they used when the sale was perfected on July 18, 1990.

SO ORDERED.

Hernando, J., Chairperson, and Azcarraga-Jacob, JJ., concur.

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[1] Rollo, pp. 77-78, per Resolution dated March 13, 2013

[2] Records, pp. 378-404, penned by the Honorable Judge Henry J. Trocino

[3] Records, p. 9

[4] Records, p. 10

[5] Records, p. 11

[6] TSN, December 5, 2000, p. 16

[7] Records, p. 30

[8] Records, pp. 378-404

[9] Rollo, pp. 102-103

[10] Rollo, p. 74

[11] Rollo, p. 75

[12] An Act Expanding The Jurisdiction Of The Metropolitan Trial Courts, Municipal Trial Courts, And Municipal Circuit Trial Courts, Amending For The Purpose Batas Pambansa, Blg. 129, Otherwise Known As The "Judiciary Reorganization Act Of 1980"

[13] Heirs of Fernando v. De Belen, G.R. No. 186366, July 3, 2013

[14] 131 Phil. 556, (1968)

[15] G.R. No. 186366, July 3, 2013

[16] G.R. No. 105180, July 5, 1993

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[17] Surviving Heirs of Bautista v. Lindo, et al., G.R. No. 208232, March 10, 2014

[18] Records, p. 21

[19] Surviving Heirs of Bautista v. Lindo, et al., G.R. No. 208232, March 10, 2014

[20] Heirs of Ureta, Sr. v. Heirs of Ureta, G.R. Nos. 165748-165930, September 14, 2011

[21] Records, p. 10

[22] Records, p. 30

[23] TSN, April 21, 1999, p. 6

[24] TSN, April 21, 1999, p. 7

[25] TSN, April 21, 1999, p. 10

[26] TSN, April 21, 1999, pp. 14-15

[27] TSN, April 21, 1999, p. 26

[28] Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be alloted to him in the division upon the termination of the co-ownership.

[29] Heirs of Balite v. Lim, G.R. No. 152168, December 10, 2004

[30] Development Bank of the Philippines v. Traverse Development Corporation, et al., G.R. No. 169293, October 5, 2011

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