

ARSENIO ESCUDERO, ET AL., PLAINTIFFS AND APPELLANTS, VS. GERTRUDO FLORES, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-7401. June 25, 1955

Ponente: BENGZON, ACTING C.J.

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BENGZON, ACTING C.J.:

Under review is the order of Hon. Nicasio Yatco, Judge of the Laguna court of first instance dismissing plaintiffs' complaint that sought to annul the judgment previously rendered in Civil Case No. 9296 of the same court, and thereby to obtain the return of the land and money they had been required to deliver pursuant thereto.

Plaintiffs—the Escuderos—were defendants in civil case No. 9296 sued by the herein defendants, the Flores heirs. The roles are now reversed, because after the latter had won by said previous judgment, the present plaintiffs—the Escuderos—seek to avoid it, principally upon the ground of fraud.

On May 21, 1953 the instant lawsuit was started in the Laguna court. The Escuderos alleged that the Flores heirs, knowing they had no right to the land, filed their complaint in civil case No. 9296 for the purpose of enriching themselves unduly at their expense, and eventually secured judgment on the basis of an agreed statement of facts. The Escuderos further alleged that in said previous case their counsel erred in approving the stipulation of facts; that the Flores heirs, cognizant of the true facts, concealed them from the court and the defendants therein, the Escuderos.

Required to answer the present complaint, the Flores heirs filed a motion to dismiss on the ground that the complaint stated no cause of action, being barred by a prior judgment, and that plaintiffs had no personality to sue. After considering arguments on both sides, His Honor sustained the motion, in a well-reasoned order dated June 30, 1953. Hence this appeal, interposed in due time.

We find it unnecessary to examine the question of plaintiffs' personality, inasmuch as upon close study of the record we are persuaded that they are concluded by the previous decision in civil case No. 9296, wherein they had been ordered to deliver to the Floreses one-sixth (1/6) of the property in litigation, and pay monthly rentals thereon of P20.83 from October 11, 1939. That decision, confirmed on appeal by this Court with modifications, in March 1953, declared the Floreses as heirs of the land from their mother Romualda Beltran who in turn had inherited it from her parents Regino Beltran and Simeona de Mesa.

The Escuderos now contend that Romualda Beltran had already received her portion from her parents, and that this land was not part thereof. Wherefore they ascribe fraud to the Floreses for having "concealed" in civil case No. 9296, "the fact that their mother had (previously) received her corresponding share in the properties of their grandparents".

There is no doubt that, tested by the principles governing res judicata, the present complaint of the Escuderos must fail. The decision in civil case No. 9296 was final; the court had jurisdiction over the subject-matter and the parties; it was a judgment on the merits, between the same parties, over identical subject-matter and cause of

action.[1]

It is claimed, however, for appellants that their cause of action now is founded on the juridical tenet requiring the return of whatever is received at the expense of another without just or legal ground (Art 22 New Civil Code). But the Flores heirs received the land with just title i.e., the decision, which is conclusively presumed to be right.[2]

Attempting to evade such presumption, appellants insist there was fraud[3] committed by the Floreses to win the aforesaid lawsuit, "because they (Flores) failed to disclose the real facts". And article 1339 of the New Civil Code is invoked:

"Art. 1339. Failure to disclose facts, when there is a duty to reveal them, as when the parties are bound by confidential relations. constitute fraud.[4]

Yet it is not shown how such duty to disclose came to rest upon the Floreses. On the contrary, it would seem that between opponents in a litigation there could be no such obligation: their relations far from being friendly or confidential, are openly antagonistic.

And if the alleged failure of the winning party to reveal the true facts in court, could be an excuse for the presentation of such true facts in a subsequent litigation over the same issue, then the doctrine of *res judicata* would become utterly worthless, because the losing party in one case may always renew the controversy by simply asserting, in a second complaint, concealment of the real facts, and thereby start all over again.

"The foundation principle upon which the doctrine of *res judicata* rests is that parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate. It is considered that a judgment presents evidence of the facts of so high a nature that nothing which could be proved by evidence aliunde would be sufficient to overcome it] and therefore it would be useless for a party against whom it can be properly applied to adduce any such evidence, and accordingly he is estopped or precluded by law from doing so." (Moran Comments on the Rules of Court, Vol. I pp. 865-866.)

Anyway the deception by the Floreses, if any, was intrinsic, being in the same category as presentation of perjured testimony or false evidence.[5] Such fraud does not prevent application of *res judicata*. According to repeated decisions, only extrinsic fraud in procuring a judgment is ground to nullify it.[6]

"Fraud to be ground for nullity of a judgment must be extrinsic to the litigation. Were not this the rule there would be no end to litigations, perjury being of such common occurrence in trials. In fact, under the opposite rule, the losing party could attack the judgment at any time, by attributing imaginary falsehood to his adversary's proof. But the settled law is that judicial determination however erroneous of matter brought within the court's jurisdiction cannot be invalidated in another proceeding. It is the business of a party to meet and repel his opponent's perjury evidence." (Almeda vs. Cruz 47 Off. Gaz., 1179.)

There are other equally tenable propositions to sustain the appealed order; but the foregoing are deemed sufficient for the purposes of this appeal.

The trial court's order is affirmed, with costs against appellants.

Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

[1] Rule 39 section 44; San Diego vs. Cardona 70 Phil., 281.

[2] Rule 123 section 68 (d); and Rule 38 section 44.

[3] A judgment obtained by fraud may be set aside. *Anuran vs. Aquino*, 38 Phil., 29; *Garchitorena vs. Sotelo*, 74 Phil., 25; *Riera vs. Palmoroli*, 40 Phil., 105.

[4] New codal provision. Judicially recognized in *Strong vs. Gutierrez Repide*, 41 Phil., 947.

[5] See *Almeda vs. Cruz*, 47 Off. Gaz., 1179.

[6] *Almeda vs. Cruz*, supra; *Domingo vs. David*, 68 Phil., 134; *Ramos vs. Albano* 92 Phil., 834; *Mandae vs. Gumarod et al.* 47 Off. Gaz., Supp. (12) 449; *Moran Comments*, Vol. I pp. 866, 777.

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