

**DEMETRIO MANALO, PETITIONER, VS. HON. HERMINIO C. MARIANO,
AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL,
SEVERINO, INOCENCIO, PRISCILLA, TEODORA, ELENA AND LOPE,
A...**

G.R. No. L-33850. January 22, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

The question in these special civil actions of certiorari and prohibition is whether Pasig Branch X of the Court of First Instance of Rizal can entertain an action for the annulment of a partition agreement on the ground of fraud although its validity had already been upheld by Branch VIII of the same court in a land registration case.

The factual background of that question, as shown in the expedientes of Land Registration Case No. N-6347, LRC Record No. N-35459 and Civil Case No. 13708 of the lower court, is as follows:

Pedro Manalo was the owner of a parcel of land located at Barrio Ususan, Pateros, near Taguig, Rizal. After his death in 1901, the land was inherited by his daughter, Teodora Manalo. When Teodora died, the land was inherited by her son, Francisco Ymzon. Ymzon donated the land to his first cousins, the brothers, Demetrio Manalo and Mamerto Manalo. On April 30, 1952 they partitioned into two equal parts the said land which had an area of one thousand four hundred seventy-four (1,474) square meters and which was covered by Tax Declaration No. 6746 in the name of Teodora Manalo (Exh. J., Repartición Extrajudicial). Mamerto died in 1956. His one-half share of the said land was inherited by his son, Severino Manalo.

On August 4, 1960 Demetrio Manalo, and his nephew, Severino (the son of Mamerto Manalo) executed a "Kasulatan ng Hatian ng Lupa" (Exh. 6 or K) before the same notary who had notarized the 1952 extrajudicial partition (Exh. J). The "K asulatan" referred to three parcels of land covered by Tax Declarations Nos. 1249, 856 and 1368 in the name of Mamerto Manalo with areas of 768, 4,706 and 1,286 square meters, respectively. It was recited in that document that Demetrio Manalo and Severino were the owners ("tunay at ganap na mayari lamang") of the said three parcels of land. In the partition Demetrio was given (a) the parcel with an area of 1,286 square meters and (b) 2,094 square meters out of the parcel with an area of 4,706 square meters. On the other hand, the parcel with an area of 768 square meters and the remainder of 2,612 square meters (out of the 4,706 square meters) were allocated to Severino Manalo.

As stipulated in that document and in conformity with Act No. 3344 amending section 194 of the Revised Administrative Code regarding the registry for unregistered lands, the said document was recorded in the Registry of Deeds of Rizal on August 25, 1960 (Entry No. 17079, Page 193, Volume 85, File No. 17079; Exh. K-1).

On March 6, 1968 Demetrio Manalo filed in the Court of First Instance of Rizal an application for the registration of the lands which he had acquired under the 1952 and 1960 partitions already mentioned and which are now identified as Lots 1, 2, 3, 4 and 5 of the Plan Psu-191273 with a total area of four thousand forty-five (4,045)

square meters (LRC Case No. N-6347). That case was assigned to Pasig Branch VIII:

Severino Manalo opposed the application. He averred that his signature to the "Kasulatan ng Hatian ng Lupa" dated August 4, 1960 was fraudulently secured by Demetrio Manalo. He filed a counter-petition for the registration in his name of Lots 1 to 5.[1]

At the inception of the hearing, Severino Manalo withdrew his opposition to the registration of Lots 4 and 5. He confined his opposition to Lots 1, 2 and 3. After the hearing, the lower court (Branch VIII) overruled Severino Manalo's opposition and decreed the registration of the five lots in the name of Demetrio Manalo. In its decision dated October 9, 1970 it found that the partition dated August 5, 1960 was valid. Severino Manalo did not testify to the alleged fraud. It was his son, Inocencio, who testified that Severino Manalo was defrauded. The lower court did not give any credence to Inocencio's testimony. (Its findings on the validity of the partition agreement are quoted in the footnote.)[2]

Severino Manalo was not able to perfect an appeal from that decision. It became final and executory. The lower court in its order of October 2, 1971 directed the issuance of the corresponding decree.

On July 31, 1970, or before the termination of the land registration case, the children of Severino Manalo, named Inocencio, Priscilla, Teodora, Elena and Lope (without joining their father, Severino) filed in the lower court a "petition" for the annulment of the aforementioned "Kasulatan ng Hatian sa Lupa" on the ground that their father, who had an inadequate education, had signed it because of the false and fraudulent representation of Demetrio Manalo that he (Demetrio) was an heir of Mamerto Manalo, the father of Severino. That case was assigned to Branch X (Civil Case No. 13708).

Demetrio Manalo filed a motion to dismiss the "petition" on the grounds (1) that the action is between members of the same family and no earnest efforts towards a compromise had been made before the action was filed; (2) that the plaintiffs have no legal capacity to sue; (3) that the action is barred by the prior judgment in the land registration case, and (4) that the action is barred by prescription.

The lower court in its Orders of March 10 and July 17, 1971 denied the motion to dismiss. It ruled that the decision in the land registration case did not constitute *res judicata* as to the validity of the "Kasulatan" in question because Severino Manalo did not testify in the land registration case regarding its execution and, moreover, the lower court, as a land registration court with limited jurisdiction, allegedly could not resolve that issue.

On August 5, 1971 Demetrio Manalo filed the instant petition for certiorari and prohibition. The issue is whether the action for the annulment of the partition agreement is barred by *res judicata*.[3]

We hold that such an action is barred by the prior judgment in the land registration case. The decision in a land registration proceeding, which is a proceeding in rem, "is conclusive upon the title" to the land and is binding on the whole world (Sec. 49[a], Rule 39, Rules of Court).

In the instant case, the decision in Land Registration Case No. N-6347 may also be regarded as a judgment in personam against Severino Manalo. He was the oppositor in that case. He presented evidence in support of his opposition particularly with reference to the supposed nullity of the 1960 partition agreement. He asked that the contested lots be registered in his name. The lower court ruled against his contentions and sustained the application of Demetrio Manalo.

The lower court's decision is conclusive against Severino Manalo. It has all the elements of *res judicata vis-a-vis* Civil Case No. 13708: (a) a final judgment, (b) a court with jurisdiction over the res and the parties, (c) a judgment on the merits, and (d) identity of parties, subject-matter and cause of action.

Severino Manalo's contention that the lower court, as a land registration court, had no jurisdiction to pass upon the validity of the 1960 partition agreement is not well-taken. The Court of First Instance is a court of "general original jurisdiction" "invested with power to take cognizance of all kinds of cases": civil cases, criminal cases, special proceedings, land registration, guardianship, naturalization, admiralty and insolvency case (Sec. 39, Judiciary Law; *De Paula vs. Escay*, 97 Phil. 617, 619).

Whether a particular matter should be resolved by the Court of First Instance in the exercise of its general jurisdiction or of its limited jurisdiction as a special court (probate, land registration, etc.) is in reality not a jurisdictional question. It is in essence a procedural question involving a mode of practice "which may be waived" (*Cunanan vs. Amparo*, 80 Phil. 227, 232; *Cf. Reyes vs. Diaz*, 73 Phil. 484 re jurisdiction over the issue).

Thus, although a probate court may not decide a question of title, yet if the parties submit that question to the probate court and the interests of third parties are not impaired, the probate court may have jurisdiction to decide that issue (*Pascual vs. Pascual*, 73 Phil. 56).

Generally, an issue properly litigable in an ordinary civil action under the general jurisdiction of the Court of First Instance should not be resolved in a land registration proceeding. But since in this jurisdiction the Court of First Instance also functions as a land registration court, if the parties acquiesced in submitting that issue for determination in the land registration proceeding and they were given full opportunity to present their respective sides and their evidence, the land registration court would have jurisdiction to pass upon that issue (*Franco vs. Monte de Piedad and Savings Bank*, L-17610, April 22, 1963, 7 SCRA 660; *City of Manila vs. Tarlac Development Corporation, etc.*, L-24557, 24 SCRA 467, 3 cases).

In this case, Severino Manalo himself invoked the court's jurisdiction by praying that the deed of partition be "declared null and void" and that the disputed lands be registered in his name. He and Demetrio Manalo in effect agreed to submit that issue for adjudication by the lower court, sitting as a land registration court. That was merely a matter of practice or procedure. It did not mean that the parties asked the lower court to exercise a jurisdiction which it did not possess.

In such a situation, the rule is that a party cannot invoke the court's jurisdiction to secure affirmative relief against his opponent and, after failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 86 ALR 79; *Tiham vs. Sibonghanoy*, L-21450, April 15, 1968, 23 SCRA 29, 35-36).

Respondent Manalo's other contention is that the fact that the plaintiffs in Civil Case No. 13708, who are Severino Manalo's children, were not parties in Land Registration Case No. N-6347, and that the said case is not a land registration case precludes the application of *res judicata*. That is a flimsy contention. Severino Manalo's children, as his compulsory heirs, could bring the action in Civil Case No. 13708 only in behalf of Severino Manalo who is still alive and who is the real party in interest. The truth is that the cause of action pertains to him and not to his children.

The compulsory heirs may bring an action to impugn a "simulated alienation of property with intent to deprive" them "of their legitime" (Art. 221[4] Civil Code; *Concepcion vs. Sta. Ana*, 87 Phil. 787, 793). That is not the situation in Civil Case No. 13708. There, it was Severino Manalo who was supposed to have been defrauded. As he is still alive, he should have brought the action to annul the contract wherein he was allegedly defrauded.

So, the fact that Civil Case No. 13708 is an action to annul the partition agreement and that Severino Manalo's children are the plaintiffs therein would not prevent the application of *res judicata*. That case and the land registration case involve one and the same subject matter, namely, Lots 1, 2 and 3, Plan Psu-191273. "A party cannot, by varying his form of action or adopting a different method of presenting his case, escape the effects of

res judicata" (Rasay-Lahoz vs. Leonor, L-27388, March 23, 1971, 38 SCRA 47).

Moreover, the action to annul the 1960 partition agreement would be an unwarranted collateral attack on the judgment in the land registration case which was rendered by another branch of the lower court. Such an action would reopen the issue as to the validity of the partition agreement, an issue which was already resolved and set at rest in the land registration case. The rule of non quita movere applies. (See Dulap vs. Court of Appeals, L-28306, December 18, 1971, 42 SCRA 537).

Demetrio Manalo called the lower court's attention to the decision in the land registration case. It should have taken judicial notice of that case (Figueras vs. Serrano, 52 Phil. 28). It should have known that the issue raised in Civil Case No. 13708, which is the validity of the partition agreement, had already been adjudicated by another branch of the same court in Land Registration Case No. 6347 and, therefore, it would be highly improper to re-litigate the same issue. When there is an intimate connection between two cases, and the parties and subject-matter of the controversy are the same and the issue raised in the latter case was determined in the previous case, the principle of res judicata is applicable (Martinez vs. Notor, 85 Phil. 62; Vda. de Ursua vs. Pelayo, 107 Phil. 622).

Since public and private interests demand that litigation should cease, the tendency is to broaden, rather than restrict, the application of res judicata (Paz vs. Inandan, 75 Phil. 608).

The jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to that branch. Another branch, even if it belongs to the same judicial district, that attempts to annul the judgment of another branch, exceeds its jurisdiction or acts with grave abuse of discretion. Certiorari and prohibition would lie to prevent one branch of a Court of First Instance from nullifying the prior judgment rendered by a co-equal and coordinate branch. (J. M. Tuason & Co., Inc. vs. Torres, L-24717, December 4, 1967, 21 SCRA 1169, 1172).

Generally, certiorari is not available to annul an order denying a motion to dismiss issued by a Court of First Instance within its jurisdiction. Appeal in due time is the remedy to review the validity of that order. But, where, as in this case, a patent grave abuse of discretion was committed in not dismissing a complaint on the ground of prior judgment (cosa juzgada) or where "the broader interests of justice or public policy require an exception" and the petitioner's contention appears to be clearly tenable, the writ of certiorari may be granted to set aside an interlocutory order (Manila Electric Co. and Sheriff of Quezon City vs. Hon. Enriquez, etc. and Espinosa, 110 Phil. 499; Pachoco vs. Tumangday and Fernandez, etc., 108 Phil. 238; Sanchez vs. Zosa, L-27043, November 28, 1975).

Wherefore, the lower court's orders of March 10 and July 17, 1971 are set aside. It is directed to dismiss Civil Case No. 13708. No costs. So ordered.

Fernando (Chairman), Antonio and Concepcion Jr., JJ., concur.

Barredo, J., concurs in a separate opinion.

[1] His opposition reads as follows:

"OPPOSITION

"COMES NOW the oppositor SEVERINO MANALO, assisted by his undersigned counsel, and in opposition to the application for registration filed in the above-numbered case, to this Honorable Court most respectfully states:

"1. That the oppositor is of legal age, married to Pacita Reyes, Filipino citizen, and a resident of Ususan, Tagig,

Rizal, where he may be served with summons and other court processes;

"2. That, as far as known to the herein oppositor, not all of the parcels of land subject of the application are in the municipality of Pateros, Rizal, but that some of them are actually located at the municipality of Tagig, Rizal;

"3. That it is not true that the applicant is the true and lawful owner of the parcels of land subject of the application, and that it is likewise not true, as claimed in his application, that he (applicant) became the owner thereof by virtue of purchase;

"4. That the lawful owner of said parcels of land is the herein oppositor, as he has inherited the same from its preceding owner, the deceased Mamerto Manalo who, in turn, has purchased the same;

"5. That under date of August 4, 1960, the applicant, by means of false and fraudulent representations that he is a lawful heir entitled to inherit from the deceased Mamerto Manalo, when in truth and in fact it was later found out to be that he (applicant) is not, and taking advantage of oppositor's lack of education, has caused the execution of a document entitled "Kasulatan ng Hatian ng Lupa" and has unjustly and fraudulently secured the signature of the herein oppositor, by which document the applicant obtained one-half of the estate of said deceased Mamerto Manalo, which one-half composes the parcels of land now object of the present registration proceedings. A copy of the aforementioned document "Kasulatan ng Hatian ng Lupa" (Doc. No. 95; Page No. 557; Book No. 1; Series of 1960 of Notary Public Purification B. Flores of Rizal) is hereto attached and marked as Annex "1".

"6. That the oppositor, acting upon such false and fraudulent representations, not knowing his actual legal rights over the lands now subject of the application as excluding those of the applicant, and not to mention some sort of blood relationship existing between them, did sign the said document Annex "1". Oppositor became aware of his true and lawful rights, title and ownership over these lands only last February, 1968, when he accidentally came to consult the undersigned counsel;

"7. That the document Annex "1" could not be made the basis of applicant's ownership because, as aforesaid, there was false and fraudulent representations attending its execution, and moreover, the said document suffers from lack of consideration and makes a person like the applicant an heir to the estate of another when he (applicant) is not truly an heir. Apparently, Annex "A" is null and void;

"8. That the oppositor, together with his predecessors-in-interest, and including the applicant's possession by virtue of a trust created by law, have been in possession of the said parcels of land for a period of more than thirty (30) years, prior to the filing of the application; and

"9. That, prior to the filing of this opposition, the oppositor, considering the blood relationship existing between him and the applicant, has exerted utmost efforts to have this matter settled extrajudicially, but all such efforts proved futile and in vain.

"WHEREFORE, it is respectfully prayed that:

(A). The application be denied for lack of merit;

(B). The document Annex "1" hereto attached be incidentally declared null and void; and

(C). The herein oppositor's title, right, possession and ownership over the parcels of land subject of this registration proceedings be judicially confirmed and a decree be issued thereafter to him (oppositor), after due hearing;

"Oppositor, finally, prays for such other reliefs and remedies just and equitable in the premises.

"Mandaluyong, for Pasig, Rizal, January 23, 1969.

MARCELO G. RAMOS &
JOSE S. ATIENZA

By:

(Sgd.) MARCELO G. RAMOS

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(Verification is omitted)

[2] The lower court said:

"The records also show that after the death of Mamerto Manalo, the applicant Demetrio Manalo and the oppositor Severino Manalo executed a deed of partition of the land, Exhibit K, whereby one-half thereof was given to Mamerto Manalo and the other remaining one-half in favor of Demetrio Manalo. This deed of partition is now challenged by the oppositor alleging that it was fraudulent. Testimonial evidence was offered by Inocencio Manalo, son of Severino Manalo, who substantially declared that a few days before August 4, 1960 Demetrio Manalo approached his father Severino Manalo and proposed that since they are the only heirs of Mamerto Manalo, the former as brother and the latter as the son of the said deceased Mamerto Manalo they should divide the said property between them. Severino Manalo allegedly due to his lack of knowledge of the law and believing that Demetrio, his uncle, was entitled to one-half of the property agreed to partition the land, thus giving one-half to his uncle. On August 4, 1960, a deed of partition was executed between Demetrio Manalo and Severino Manalo.

"The Court after a careful review of the records believes that the opposition of Severino Manalo should be overruled. The only evidence presented by the oppositor to substantiate his claim that the deed of partition, Exhibit K, was entered into fraudulently by the oppositor Severino Manalo with the applicant was the testimony of oppositor's son, Inocencio Manalo. Inocencio Manalo was without knowledge of how his father allegedly came to own the disputed lands and the antecedent circumstances that the brothers Mamerto and Demetrio Manalo had earlier redeemed the same from Nicasio Manalo to whom the original owner of the land, Pedro Manalo, had previously mortgaged it. Severino Manalo who could possibly be the best witness to testify on how he executed the deed of partition, Exhibit K, the attendant circumstances thereto and the alleged fraudulent inducement made on him by Demetrio Manalo to sign the document, failed to testify. At best, the testimony of the son, Inocencio Manalo, was nebulous and uncertain. It could not overcome the true and positive testimony of the applicant himself and the witness Ambrosia Lozada, an elderly woman who by reason of her age and close relationship to the parties is in a better position to know fully the fact involving the original ownership of the land and the subsequent incidents or transaction thereto concerning the property now in dispute.

"The deed of partition, Exhibit K, was executed way back in the year 1960. Up to the filing of the present application by Demetrio Manalo, Severino Manalo took no step, and none appears in the records, to challenge the validity of the deed of partition. The rule is settled that a public document executed by the parties in accordance with the formalities required by law is presumed valid. This legal presumption of the validity of the deed of partition is further bolstered by the inaction of the oppositor to attack it for so long a time. Evidently the claim that the deed of partition, Exhibit K, was signed by Severino Manalo thru fraud or deceit committed by Demetrio Manalo is merely an after thought. Even if that is so, action based on fraud prescribes in four (4) years.

"In synthesis, the failure of Severino Manalo himself to testify and attack the validity of the document, Exhibit

K, by showing the circumstances under which he signed the same which would render it null and void or at least subject to doubt, the failure of Severino Manalo to take any action against the document, Exhibit K, since it was executed by him in the year 1960 and up to the filing of the present application and the circumstance of laches and prescription, militate against the claim of oppositor and singly or collectively seriously negate his pretension that fraud attended the execution of the deed of partition."

[3] The issue of prescription, which was raised in the lower court and which was resolved by the lower court in the land registration case against Severino Manalo, was not raised in this certiorari and prohibition case. The memoranda of the parties discussed only the issue of res judicata. Hence, the issue of prescription has not been resolved in this decision.

CONCURRING OPINION

BARREDO., J.:

I concur in the judgment ordering respondent court to dismiss Civil Case No. 13708 because it is my view that the court which decided the land registration case had ample jurisdiction to pass on the issue of the validity of the "Kasulatan ng Hatian sa Lupa" as the basis precisely for its determination of whether or not Demetrio Manalo had a registerable title to the lots in question, inasmuch as Severino Manalo was claiming otherwise upon the theory that the "Kasulatan" was signed by him thru fraud. Accordingly, there is no doubt in my mind that the action subsequently filed by heirs of Severino to annul the said "Kasulatan" is already barred by the judgment in the land registration case.

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