

**ELENA VALDEZ, PEDRO TABELINA, AND DOMINGO VALDEZ,
PETITIONERS, VS. HON. AGUSTIN C. BAGASAO, IN HIS CAPACITY AS
THE PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF
NUEVA ECIJA,...**

G.R. No. L-46608. March 08, 1978

Ponente: ANTONIO, J.

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ANTONIO, J.:

In an action instituted by the private respondents against petitioners to nullify the two deeds of absolute sale executed by their predecessor-in-interest, Teodora Bucaneg (now deceased), in favor of the petitioners involving her real properties in San Jose, Nueva Ecija, and to partition the same among the heirs of said deceased, the Court of First Instance of Nueva Ecija rendered judgment on May 8, 1973, (a) declaring the deeds of absolute sale aforementioned as null and void; (b) directing the cancellation of the Transfer Certificates of Title Nos. NT-51080, NT-54729, NT-54038, NT-64354, NT-64353, NT-54730, and NT-53591 issued in the name of the vendees; and (c) ordering the partition of the afore-mentioned properties among the eight heirs of the deceased Teodora Bucaneg. Petitioner Elena Valdez, Pedro Tabelina and Domingo Valdez in due course appealed the judgment to the Court of Appeals. After the submission of the printed record on appeal and the briefs and when the case was already submitted for decision, the Court of Appeals, on May 11, 1976, in CA-G. R. No. 53976-R, instead of deciding the case on the merits, issued a Resolution dismissing the appeal and remanded the case to the trial court to proceed conformably to Rule 69, on the ground that the judgment of the trial court ordering partition of the properties is interlocutory as it "is not final because it leaves something more to be done for the complete disposition of the case, namely, the appointment of commissioners, the proceedings to be had before them, the submission of their report which, according to law, must be set for hearing",[1] and the approval of the project of partition. In view of our ruling in *Vicente Miranda, et al. v. Court of Appeals, et al.*, [2] the petitioners, on April 5, 1977, filed a motion with the trial court, praying that the records be remanded to the Court of Appeals for the decision of the case on the merits. It was pointed out that the aforementioned parties "had already incurred considerable expenses in perfecting * * * their appeal with the Appellate Court and had already filed their printed record on appeal and brief on appeal * * *" and they would incur additional expenses if they were made to appeal anew, by filing another printed record on appeal.

On June 20, 1977, the trial court denied the motion to remand on the ground that the Resolution of the Appellate Court on May 11, 1976 had already become final. The motion for reconsideration of the petitioners having been denied on July 22, 1977 by the court a quo, they filed the present petition for certiorari with mandamus and preliminary injunction with the prayer that the aforesaid challenged Orders be set aside and respondent Judge ordered to forward the records of the case to the Court of Appeals for decision of the case on the merits.

We grant certiorari.

It was error for the trial court to hold that the Resolution of the Appellate Court of May 11, 1976 ordering the

remand of the case to the trial court for further proceedings is a judgment which has attained conclusiveness and finality. Certainly, it was not a final order or judgment finally disposing of, adjudicating or determining the rights of the parties. It was, in essence, merely interlocutory.

The main issue raised in the appeal is the validity of the two conveyances executed by the predecessor-in-interest of the parties. Unless this issue is definitively and finally resolved, it would be premature to effect a partition of the properties subject of such conveyances. Contrary to the holding of the Appellate Court, the decision of the trial court declaring null the aforesaid conveyances and granting recovery of the properties for the purpose of ordering their partition is a definitive judgment because it decided the rights of the parties upon the issue submitted. It was not, therefore, an interlocutory order. As this Court enunciated in *Miranda, et al. v. Court of Appeals, et al.*, supra, a judgment which grants recovery of the ownership and possession of property in favor of one party as against the adverse claim of title of the other is in effect a final judgment which is appealable. In *Miranda*, this Court considered as the better rule the one enunciated in *H.E. Heacock Co. v. American Trading Co.*,^[3] to wit: that where the primary purpose of a case is to ascertain and determine who, as between plaintiff and defendant, is the true owner and entitled to the exclusive use of the disputed property, the judgment rendered by the lower court is a judgment on the merits as to those questions, and that the order for an accounting is merely incidental to such judgment. We explained therein that if said judgment is merely considered interlocutory subject to the control of the judge, there would be as many decisions to be taken up on appeal as there were successor judges inclined to review or reverse his predecessor's judgment, "with none of the parties adversely affected able to appeal from any of the fluctuating decisions for as long as the accounting has not been terminated." Such unbridled power of the Court to change at will its judgment does violence to the very purpose for which courts are organized which is to put an end to controversy. This Court adverted to the fact that "imperative considerations of public policy and of sound practice in the courts and adherence to the constitutional mandate of simplified, just, speedy and inexpensive determination of every action call for considering such judgments for recovery of property with accounting as final, judgments which are duly appealable (and would therefore become final and executory if not appealed within the reglementary period) with the accounting as a mere incident of the judgment to be rendered during the course of the appeal as provided in Rule 39, section 4 or to be implemented at the execution stage upon final affirmance on appeal of the judgment * * * and that the only reason given in *Fuentebella* for the contrary ruling, viz, 'the general harm that would follow from throwing the door open to multiplicity of appeals in a single case' is of lesser import and consequence."^[4] We reiterate the validity of that doctrine and find it clearly applicable in this case. Indeed, it would be more conducive to the speedy and inexpensive determination of the case, if the issue of the validity of the two deeds of sale is first finally resolved by the Appellate Court before the question of partition can be taken up by the trial court.

WHEREFORE, in view of the foregoing, respondent Court's Orders of June 20, 1977 and July 22, 1977 are hereby set aside. The trial court is hereby ordered to remand the record of the case to the Court of Appeals in order that the afore-mentioned Appellate Court may decide the appeal on the merits. Costs against private respondents.

Castro, C.J., Fernando, Makasiar, Palma, Aquino, Concepcion, Jr., Santos, Fernandez, and Guerrero, JJ., concur.

Teehankee, J., concurs in a separate opinion.

Barredo, J., considering that *Miranda* has become the new rule. He concurs. He believe, however that to achieve the reason behind *Miranda*, the trial court may consider an immediate execution under sec. 2, rule 39.

[1] *Zaldarriaga v. Enriquez*, 1 SCRA 1188, 1193 (1967) which affirmed that of *Fuentebella v. Carrascoso*, G. R.

No. L48102, May 27, 1942.

[2] G.R. No. L-33007, promulgated on June 18, 1976, 71 SCRA 295.

[3] 53 Phil. 481.

[4] Miranda, et al. v. Court of Appeals, et al., supra, p. 333.

SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

I concur with the main opinion and would only note that this case demonstrates once again the validity of our ruling in *Miranda vs. Court of Appeals*,^[1] (expressly overturning *Fuentebella vs. Carrascoso*^[2]), that where the primary purpose of a case is to determine who between plaintiff and defendant is the true owner and entitled to the exclusive use of the disputed property, the judgment rendered by the trial court is a final or definitive judgment on the merit is from which an appeal must be taken by the losing party within the reglementary period under pain of its becoming otherwise final and executory (with any rendition of accounting that may have been ordered being but a mere incident to the judgment) and that the same rule applies where a partition is ordered by the trial court but the appellant claims exclusive ownership of the whole property in dispute and denies the adverse party's right to any partition.^[3]

In the case at bar, petitioners who were defendants-appellants in the Court of Appeals had duly taken an appeal from the adverse judgment of the trial court granting respondents' action as plaintiffs-appellees to nullify two deeds of sale over certain properties executed in favor of petitioners by respondents' deceased predecessor-in-interest and to order the partition of the properties among respondent s as heirs of the deceased. Such adverse judgment nullifying the deeds of sale in favor of petitioners was certainly a final definitive judgment on the merits rejecting petitioners' claim of exclusive ownership of the properties and denial of respondents' right to any partition and failure to take an appeal from the same within the reglementary 30-day period would have rendered such adverse judgment final and executory.

Yet the Court of Appeals, after the appeal from the adverse judgment of May 8, 1973 had been submitted for decision with the filing of briefs, instead of deciding the appeal on its merits issued the Resolution of May 11, 1976 remanding the case to the trial court to effect the partition ordered by said trial court among the respondents-heirs under Rule 69 on the mistaken notion (caused by the now discarded ruling in *Fuentebella*, supra) that the adverse judgment was not final and appealable as yet "because it leaves something more to be done for the complete disposition of the case" referring to the partition sought by respondents-heirs.

Quite patently, such adverse judgment was a final and appealable one, since it definitely resolved the main issue by nullifying the deeds of sale on which petitioners founded their position of exclusive ownership of the properties. The partition sought by respondents was a matter that concerned themselves exclusively as heirs of their deceased predecessor-in-interest and could be carried out only if the adverse judgment nullifying the deeds of sale were affirmed on appeal; if it were so affirmed on appeal, then the partition of the properties among themselves as heirs of the deceased would follow as a matter of course and any incidental dispute over the partition would be among themselves and of no concern of petitioners who would have then lost their claim of exclusive ownership of the properties. On the other hand, if the adverse judgment were reversed on appeal, petitioners' claim of exclusive ownership would be upheld and there would be no partition of the properties to speak of.

It is thus appropriate and in consonance with the constitutional mandate of simplified, just, speedy and inexpensive determination of every action that petitioners' appeal be returned to the Court of Appeals for determination of the main issue of the validity of the two deeds of sale on its merits (rather than temporize with the incidental matter of partition and require the trial court to complete the partition proceedings among the respondents themselves when such partition proceedings are totally alien to the main issue insofar as the adverse parties - the petitioners - are concerned) so that the parties may know once and for all and as soon as possible where they finally stand, i.e. whether the properties truly belong to petitioners exclusively if the deeds of sale are held to be valid or in the contrary event, to respondents exclusively (which properties respondents may then partition among themselves extra judicially or ask the court to partition between them if they cannot agree among themselves).

[1] 71 SCRA 295 (June 18, 1976).

[2] Unreported in Phil. Reports but reported in XIV Lawyers' Journal 305, cited in *Zaldarriaga vs. Enriquez*, 1 SCRA 1188, likewise expressly overturned.

[3] 71 SCRA at pp. 331-333.

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