

**GERMAN CRISOSTOMO, AS HEIR OF QUITERIO CRISOSTOMO;
FELIPA CRISOSTOMO; PEREGRINA FLORES DIMAGUIBA, AS HEIRESS
OF POTENCIANA CRISOSTOMO; AND PURIFICACION
CRISOSTOMO-REYES, AS HEIR...**

G.R. No. L-27166. March 25, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

The essential facts upon which the issues posed in this petition rest are not controverted.

After proceedings duly had in Registration Case 1183, the Court of First Instance of Bulacan decreed the registration of a parcel of land situated in the municipality of Hagonoy of the same province in the name of the estate of the late Laureano Marquez. On November 29, 1956, however, before the decree of registration could issue, the petitioners German Crisostomo, et al. sought a review of the judgment rendered in that case and prayed the court that issued the decree of registration to order its transfer in their names. After a protracted hearing, the petitioners lost out to the respondents heirs of Marquez, per the order of the court dated April 26, 1960.

In due time, the petitioners gave notice to the trial court that they were appealing its order to the respondent Court of Appeals, and subsequently, on May 20, 1960, they moved the lower court for approval of their record on appeal and appeal bond and, further, for transmittal of these, together with the evidence pre-sented, at the trial, to the respondent Court of Appeals.

On July 14, 1961, after the contending parties had submitted their printed briefs to the respondent appellate court (CA-G.R. 28678-B), the respondents heirs of Marquez, then appellees, moved that court to forward the case to this Court for the reason that the value of the land under litigation, something in excess of P200,000, placed the matter within this Court's exclusive appellate jurisdiction. Asked for comment, the petitioners, then appellants, braced to block the move for a change of forum and filed on July 18, 1961 an opposition secured on the arguments that the valuation of the property submitted by the heirs of Marquez was based on self-serving and unreliable affidavits and that, moreover, the best evidence of the true valuation of the property was the amount certified by the provincial assessor which stood at only P29,170 -- an amount which placed the controversy within the exclusive reviewing power of the respondent Court of Appeals on questions of law and fact.[1]

The matter of jurisdiction was calendared for oral argument, but on the date set therefor, the respondent court instead required the parties to submit their respective memoranda on the matter, af-ter which the case was to be deemed submitted for decision. Oppos-ing memoranda were thus submitted. The respondents heirs of Mar-quez insisted that the amount in controversy based on the affidavits submitted justified the elevation of the appeal to this Court whereas the petitioners German Crisostomo, et al., defended the exclusive authority of the respondent Court of Appeals to review the case.

On November 8, 1966, about five years after the appeal and its incidents were submitted for consideration, the

respondent appellate court rendered a decision on the merits of the appeal, upholding the judgment of the trial court. Although it did not expressly pass upon the question of jurisdiction raised by the respondents heirs of Marquez, it is to be assumed that the respondent Court of Appeals considered itself possessed of jurisdiction over the appeal.

The petitioners who received a copy of the adverse decision on November 9, 1966, filed, thirteen days thereafter, or on November 23, 1966, a one-sentence "motion for reconsideration" on the ground that the decision was "contrary to law and evidence." In addition, they asked for 15 days within which to file their memorandum in support of the general ground alleged. Acting on their motion, the respondent court granted them "15 days from November 22, 1966 within which to file motion for reconsideration." At the end of the 15-day period, however, or on December 7, 1966, they moved the respondent court for another extension, this time 30 days, within which to submit their "memorandum." The following day, December 8, the respondent court resolved to deny the extension of time asked for and declared that its decision had become final.

The petitioners' motion for reconsideration of this last order was summarily denied on December 21, 1966.

Hence, this petitioner for certiorari and mandamus which raises two issues, namely, first, the value of the property under litigation and whether the same removed the controversy from the jurisdiction of the Court of Appeals, and second, whether the respondent Court of Appeals abused its discretion in denying the petitioners' motion for 30 day extension within which to file their "memorandum" and in declaring its decision final.

The records of this case clearly demonstrate, as pointed out by the respondents heirs of Marquez, that it was the petitioners themselves who urged the trial court to transmit the records of the case to the respondent Court of Appeals for review. The Court of Appeals was thus the petitioners' own choice of tribunal, pursued by them at the precise time^[2] when the jurisdictional amount should have been determined. It happened that none of the parties, and surely not the petitioners, raised the issue of the value of the controversy before the trial court. It is therefore to be assumed that the latter court, in transmitting the case to the respondent Court of Appeals, was guided principally by petitioners' own written manifestation of their desire to invoke the jurisdiction of that particular appellate court. And as we have previously quoted approvingly,^[3] "a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction." While the jurisdiction of a tribunal may be challenged at any time, sound public policy bars the petitioners from so doing after their having procured that jurisdiction themselves, speculating on the fortunes of litigation.

More, when the respondents heirs of Marquez challenged, for the first time, the jurisdiction of the respondent Court of Appeals, the petitioners were the very ones to rush to the defense of that court. They went a long way to convince the respondent court - and they succeeded - that it had the power and authority to pass judgment upon the appeal. The petitioners had stood fast with the respondent court, so that not even their abbreviated motion for reconsideration of the decision of November 8, 1966 nor their motion for reconsideration of the order of December 8, 1966 declaring the court's decision final, hinted at any objection to that court's jurisdiction.

Overnight, the petitioners' position has assumed a deep contrast color, revealed for the first time when they came up to this Court on certiorari and mandamus - obviously a weak attempt to replace by certiorari the remedy of ordinary appeal which was fore-closed by the respondent court's order of December 8, 1966 declaring its decision final.

Whereas the petitioners at one time persuaded the respondent Court of Appeals with these words:

"x x x we submit that the most competent proof to show the valuation of the land is the corresponding certification of the proper assessor of the province where it is situated. For the convenience of this Honorable

Court, we are submitting herewith, marked as Annex 'A', the tax declaration of the pro-property in question showing that the assessed value of said land is only P29,170. Although, said amount merely represent the assessed value of the property, nevertheless the same is material to disprove the valuation made by oppositors-appellees in their affidavits. If we compare this assessed value of P29,170 to the claim of oppositors-appellees that the value of the land in dispute is more than P200,000 we can easily see that they have over inflated the actual value of the property by more than nine times its assessed value,"

now that the respondent court's decision is adverse to them, they would attempt to convince us that:

"The Court of Appeals in deciding Civil Case CA-G.R. No. 28678-R, entitled Vicente Valencia vs. Heirs of Laureano Marquez; German Crisostomo, et al., had no, or lacked, jurisdiction over the same for the reason that the value of the real estate involved in the cause or controversy exceeded the amount of P200,000.00. Said respondent Court of Appeals was propitiously informed of such matter by none other than the appellees themselves in their memorandum and in AFFIDAVITS executed by Felimon Marquez, son and one of the heirs of the late Laureano Marquez, hence a party to [the] cause."

Whereas before their receipt of the adverse decision, they implored the respondent Court of Appeals in this fashion:

"WHEREFORE, it is respectfully prayed that the motion of oppositors-appellees, dated July 14, 1961, seeking the elevation of the case to the Supreme Court be denied for lack of merit,"

now in their prayer, they would want us to do no less than:

"b) To set aside the decision of the Court of Appeals promulgated on November 22, 1966 being sought to be vacated as the same was rendered without said court's authority and jurisdiction, then

"c) [To order] the Court of Appeals to forward to this Honorable Court the record of Civil Case CA-G.R. No. 28678-R, entitled Vicente Valencia vs. The Heirs of Laureano Marquez; German Crisostomo, et al., for its exclusive review as if directly appealed to it from the Court of First Instance."

In short, now that the respondent court has decided against them, the petitioners, who had induced the same court to believe that it was clothed with power to decide the appeal, would now want us to declare it to have acted without authority.

The petitioners, to borrow the language of Mr. Justice Bautista Angelo,[4] "cannot adopt a posture of double-dealing with-out running afoul of the doctrine of estoppel." The principle of estoppel is in the interest of a sound administration of the laws.[5] It should deter those who are disposed to trifle with the courts by taking inconsistent positions contrary to the elementary principles of right dealing and good faith.[6] For this reason, this Court closes the door to the petitioners' challenge against the jurisdiction of the Court of Appeals and will not even honor the question with a pronouncement.

The remaining issue raised by the petitioners centers on the resolution of the respondent court dated December 8, 1966. This resolution denied their motion for extension of time to file their "memorandum" and, furthermore, declared the decision of November 8, 1966 final and executory.

The petitioners argue that the decision of the respondent court could not have become final and executory for the reason that they had filed on November 23, 1966 a motion for reconsideration which should suspend the tolling of the period to take an appeal. It follows, continue the petitioners, that until the respondent court has acted on that motion, the decision can never attain finality.

The petitioners' motion for reconsideration, a one-sentence affair, reads:

"COMES NOW the petitioners-appellants in the above entitled case and to this Honorable Court respectfully move for the reconsideration of the decision promulgated on November 8, 1966, copy of which was received by the undersigned on November 9, 1966, on the ground that the same is contrary to law and the evidence."

This, if ever there was one, is a pro forma motion for reconsideration; it does not specify the findings or conclusions in the decision which are not supported by the evidence or which are contrary to law. A mere scrap of paper, it cannot stay the period for taking an appeal.[7]

The records show that the land subject of this petition has been under litigation for the last three and a half decades. Three times the respondent Court of Appeals had been asked to review the various judgments of the lower court relating to the ownership of the land in question. The matter is at present with us also for the third time. The long delay in the final termination of the contest between the parties should have placed the petitioners on guard against further prorogation in the case. Thirteen days after they had received a copy of the decision of the respondent court, they asked that court, and were granted, 15 days extension within which to file their "memorandum," nay, their motion for reconsideration. They allowed this extension to lapse, and at the eleventh hour, they asked the respondent court anew for a longer additional extension of 30 days. Their error was in taking for granted, that the court would approve their motion for extension. They merely filed it and did nothing else. The risk of denial was theirs.[8] More-over, the respondent court premised its denial of the application for extension of time on their manifest intention to delay the proceedings. Considering the history of this case, we cannot find any reason to state that it was not so.

ACCORDINGLY, the present petition is denied, with treble costs against petitioners, to be paid by their counsel.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] The law has already been amended so that all appeals from CFI decisions in civil cases involving property or money claims, regardless of the value or amount in controversy, must now be taken to the Court of Appeals, provided that such appeals do not pose only errors or questions of law (see Republic Act 5440).

[2] Immediately prior to or simultaneously with the approval of the record on appeal, as we held in *Rodriguez vs. Court of Appeals*, L-29264, August 29, 1969, 29 SCRA 419.

[3] *Serafin Tijam, et al. vs. Magdaleno Sibonghanoy, et al.*, L-21450, April 15, 1968, 23 SCRA 29, 35-36.

[4] *People vs. Archilla*, L-15632, February 28, 1961, 1 SCRA 699, 700-701.

[5] *Perkins vs. Benguet Consolidated Mining Co., et al.*, 93 Phil. 1034, 1058.

[6] *People vs. Acierto*, 92 Phil. 534, 541.

[7] *Arnaldo vs. Bernabe*, 87 Phil. 379.

[8] *King vs. Joe*, L-23617, August 23, 1967, 20 SCRA 1117, 1119-1120.

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