

ZAMBALES ACADEMY, INC., PLAINTIFF-APPELLANT, VS. CIRIACO VILLANUEVA, DEFENDANT-APPELLEE.*G.R. No. L-19884. May 08, 1969*

Ponente: TEEHANKEE, J.

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Appeal on questions of law from a judgment of the Court of First Instance of Zambales dismissing plaintiff's complaint in Civil Case No. 2386 for the annulment of the judgment by default for damages secured by defendant on his counterclaim against plaintiff in a previous case, Civil Case No. 1760 thereof, involving the same parties in the same roles. Defendant likewise ap-pealed from the Court's dismissal of his counterclaim for damages, but his appeal was subsequently dismissed for failure to file his brief.

In case No. 1760 filed under date of August 12, 1955, plain-tiff sued defendant for actual and compensatory damages, moral and exemplary damages for having allegedly fraudulently abused the trust reposed in him as director and board trustee of plain-tiff. Defendant in due course filed his answer with a three-cause of action counterclaim for moral and exemplary damages. Plain-tiff's motion of February 16, 1956, to dismiss the counterclaim having been denied by the lower Court on August 31, 1956, and it having continued to ignore and failed to file its Answer to the counterclaim, the lower court upon defendant's motion finally de-clared plaintiff in default as to the counterclaim in its Order of March 20, 1957. Evidence having been adduced, the lower Court rendered its decision dated June 24, 1958 in the case, the dispo-sitive portion of which reads:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment in favor of the defen-dant and against the plaintiff:

1. Dismissing the plaintiff's complaint;
2. Ordering the plaintiff to pay to the defen-dant the sum of P2,500.00 as moral damages and P1,000.00 as attorney's fees on the first cause of action of the latter's counterclaim; the amount of P5,000.00 as moral damages and P1,000.00 as at-torney's fees on the second cause of action; and the sum of P5,000.00 as moral damages and P1,000.00 as exemplary damages on the third cause of action."

Plaintiff appealed this judgment in said Case No. 1760 where it was docketed as Case CA-G.R. No. 25007-R. Before the perfect-ion of the appeal, however, and upon defendant's motion, the lower Court ordered on August 15, 1958, the execution of its decision as to defendant's counterclaim. Plaintiff thereafter instituted with the Court of Appeals an original action for certiorari and prohibi-tion for the setting aside and annulment of said Order of execu-tion.[2] The Court of Appeals in due course rendered on June 8, 1959, its decision dismissing the petition on the ground that plain-tiff, having been declared in default, had lost its right to appeal and the judgment on the counterclaim had become final and execu-tory. Plaintiff then sought a review by this Court of the Court of Appeals' decision, which was docketed as Case G. R. No. L-16371 of this Court, entitled Zambales Colleges, Inc. vs. Hon. Court of Appeals, et al. After due hearing, this Court, through Mr. Justice J. B. L. Reyes, rendered on March 28, 1961 its decision, the perti-nent portions whereof follow:

"Petitioner urges in this instance that respondent trial court committed a grave abuse of discretion and/or acted in excess of its jurisdiction in sustaining the counterclaim notwithstanding an utter lack of evidence in support of its allegations; that its order declaring the petitioner (plaintiff therein) in default and judgment by default on the counterclaim are null and void; and, finally, that said court erred in ruling that a party in default has no right to appeal.

"There is clearly no merit in the first contention. While an error of judgment might have been committed by the trial judge in his evaluation of the evidence in the damage suit (but this is just an assumption), we, nonetheless, do not find such exercise of discretion to be whimsical, arbitrary or capricious amounting to a virtual refusal to perform his bounden duty as a magistrate of justice. As to the first and second cause of action, the court, we note, took into consideration the criminal charges filed against the defendant, the findings of the criminal courts dismissing the same for want of substance, and testimonial evidence tending to show the lack of merit of the criminal imputations instituted by the plaintiff (herein petitioner), like, for instance, the absence of deceit on the part of accused Villanueva and damage on the part of complainant college. Coming specifically to the third cause of action, the trial court found, among other things, that the warrant for Villanueva's arrest was unduly hand-carried to Manila without the necessary indorsement of the justice of the peace court; that his arrest was so timed that defendant could not possibly procure immediately a bond for his provisional release, and that the warrant was served on him at his office at the Department of Education to unnecessarily embarrass, humiliate, and ridicule him before his visitors and co-employees. To accept petitioner's plea for a review of these findings and conclusions of the court would, in effect, amount to allowing the substitution of petitions for certiorari in lieu of appeals, which we are not in a position to do (see *Chua Ke vs. Abeto*, 63 Phil. 539, and cases cited therein).

"Invoking the case of *Navarro and Binoya vs. Bello, et al.*, G. R. No. L-11647, January 31, 1958, 54 Off. Gaz. 6588, petitioner next argues that the declaration of default is null and void, because the issues raised in the counterclaim, particularly those contained in the second and third causes of action, are so inextricably linked with those raised by the complaint, that an answer would merely require a repleading of the complaint."

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"Even the petitioner, however, does not pretend that defendant's initial cause of action in his counterclaim (malicious filing of criminal charges) is related to the allegations stated in the complaint. This is but to be expected, considering that the complaint never made the slightest reference to the matters averred in said portion of the counterclaim x x x . That being the case, the plaintiff was still obligated under the Rules of Court to controvert or otherwise meet the new issues by filing the corresponding answer (see Sec. 7, Rule 10, Rules of Court). The same thing may be said of the third cause of action of the counterclaim, which only raised the propriety of the manner how the warrant for Villanueva's arrest was procured by the plaintiff and served upon said defendant. No further discourse is needed to show the already apparent disparity between the issues posed by the first and third causes of action of the counterclaim, on one hand, and the complaint, on the other.

"Petitioner is, however, correct as to the second cause of action. The counterclaim itself recited that this particular cause of action is merely based on facts alleged in the complaint, and it thus had the effect only of restating the issues already raised by the plaintiff. Obviously, as far as this cause of action is concerned, there was no occasion to rule the plaintiff in default. Hence, the award of damages on the counterclaim's second cause of action has not become final, since the case was appealed on the merits. But this fact did not excuse the petitioner from meeting the different issues of the first and third causes of action, and as to them, it was properly declared in default.

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"WHEREFORE, the judgment of the Court of Appeals appealed from is modified in the sense that the order of execution, dated 15 August 1959, issued by the trial court is its Civil Case No. 1760, shall be confined only to those portions of its judgment relating to the first and third causes of action of defendant Villanueva's

counterclaim, to the exclusion of the P6,000.00 - awarded on the second cause of action. The writ of pre-liminary injunction issued by this Court on 8 March 1960 to stay execution of judgment in said civil case is hereby lifted, and the trial court ordered to proceed in accordance with this opinion. No special pronouncement as to costs."

Plaintiff filed in due course a Motion for Reconsideration of the decision, which was denied by this Court on June 15, 1961.

In no time, plaintiff filed anew on July 18, 1961 the present complaint docketed as Civil Case No. 2386 for the annulment of judgment against it in defendant's favor in the first case, Civil Case No. 1760, as affirmed by this Court with modification in Case G.R. No. L- 16371 quoted above.[3] Reiterating its previous contentions that the decision awarding damages on defendant's counterclaims in the first case was null and void and was not supported by any evidence, and alleging that it was declared in default as to defendant's counterclaims "through the deception and betrayal of its attorney in Civil Case No. 1760 and through no fault of (its) offices,"[4] plaintiff prayed for the issuance of a writ of injunction against the Court's execution order of its decision in the case in favor of defendant's counterclaims and to declare said decision null and void. Defendant filed his Answer with counter-claim for damages, averring that the nullity of the decision had already been passed upon by the Supreme Court and the Court of Appeals, that the complaint stated no cause of action as plaintiff had already lost its remedy under Rule 38 of the Rules of Court, and that if plaintiff had been deceived by its lawyer, it was a matter between them that was immaterial in the action. In its Reply, plaintiff acknowledged that its allegations in its complaint as to its lawyer's deception was "intended to legally justify our present action in view of our lost remedy of appeal in Civil Case No. 1760 due to plaintiff's default." [5] Thereafter, the parties filed several pleadings wherein both acknowledged that the questions involved in their respective affirmative defenses involved questions of law that did not require the introduction of evidence and asked the Court to render judgment. The lower Court did so, in its decision of February 14, 1962, holding that plaintiff's complaint for nullification of the decision against it on defendant's counterclaims therein for alleged lack of supporting evidence was already passed upon and barred by this Court's decision in G. R. L-16371, and that the alleged deception and betrayal of plaintiff's counsel would not render null and void the judgment "especially when as in the instant case no allegation has been made in the complaint that the opposite party and the Court had colluded with the plaintiff's counsel to deprive plaintiff of said right" [6] to present evidence and to appeal. The lower Court also held the defendant's counterclaim for damages to be untenable in the absence of a positive allegation of plaintiff's malice in filing the case, and that damages had already been awarded defendant in the first case. The lower Court therefore dismissed both plaintiff's complaint and defendant's counterclaim for lack of a sufficient cause of action and for being barred by prior judgment.

The Record on Appeal does not disclose it, but the records of this Court in G.R. No. L-20410 entitled "Zambales Academy, Inc. vs. Hon. Lucas Lacson, etc. et al" filed on October 23, 1962 show that the plaintiff had in the second case, Civil Case 2386, filed therein a bond for P9,500.00 in favor of defendant, whereby the lower Court issued its Order of September 5, 1961, suspending execution of the judgment in favor of defendant's counterclaims in the first case, until after the termination of the second case; that after the lower Court rendered its decision of February 14, 1962, dismissing the second case, it issued its Order of September 28, 1962 directing the execution of the said judgment in the first case in favor of defendant; and plaintiff then filed this, its second Petition with this Court, to prohibit and restrain, the carrying out of said Order of execution, during the pendency of its appeals from the judgments in the two cases, Nos. 1760 and 2386, in the appellate courts. This second petition was summarily dismissed for lack of merit by this Court in its Resolution of October 26, 1962.

Not content as yet, plaintiff filed thereafter on November 23, 1962 an Urgent Petition for Issuance of a Writ of Preliminary Injunction in this case, reiterating the same prayer to prohibit and restrain the carrying out of the

said Order of Execution. After having required and received the Comment of defendant, wherein it was pointed out "the issues raised in this case are the same issues raised in that case of 'Zambales Colleges vs. Hon. Court of Appeals et al' before this Court in Case G. R. No. 16371, hence that decision becomes the law of the case," this Court on January 10, 1963 denied plaintiff's prayer for the issuance of preliminary injunction.

We come now to the plaintiff's present appeal from the lower Court's judgment of dismissal of its complaint seeking to annul the judgment in the first case, Case No. 1760. We find no merit what-ever in the appeal.

The principal issue raised by plaintiff-appellant in the lower Court and here on appeal is that the judgment by default in the first case awarding damages and attorney's fees to defendant on his counterclaims, by virtue of the lower Court's findings that plain-tiff had maliciously prosecuted defendant on criminal charges was null and void for not being supported by any evidence whatsoever. Plaintiff is tenacious in its insistence that "the trial Court had no power and authority to render the particular judgment in question, that is, in the award of moral damages to defendant, there being absolutely no evidence supporting the Court's finding of malice in the institution of criminal cases"[7] by plaintiff against defen-dant. These are the very same issues and contentions of plaintiff that had already been resolved and ruled out by this Court in its final decision of March 28, 1961, in case G. R. L-16371 as correct-ly held by the lower Court. This Court then decided in rejecting plaintiff's contentions that assuming that an error of judgment might have been committed by the trial judge in his evaluation of the evidence in the damage suit, "we, nonetheless do not find such exercise of discretion to be whimsical, arbitrary or capri-cious amounting to a virtual refusal to perform his bounden duty as a magistrate of justice" such as to be reversible on certiorari.

As will be noted from our decision reproduced on page 2 hereof, this Court, in upholding the trial Court's award of damages, noted that the trial Court took into consideration the criminal charges filed by plaintiff against defendant, the findings of the criminal courts dismissing the same for want of substance, the testimonial evidence tending to show the lack of merit of the criminal imputa-tions instituted by plaintiff and the ill-timing of the service of the arrest warrant on defendant at his office at the Department of Edu-cation to cause him unnecessary embarrassment, humiliation and ridicule. This Court then rejected plaintiff's plea for a review of these findings and conclusions of the trial court, because it "would, in effect, amount to allowing the substitution of petitions for cer-tiorari in lieu of appeals, which we are not in a position to do." While plaintiff correctly perceived this Court's ruling then that such review of evidence, findings and conclusions of the trial court are "matters outside the scope of the remedy of certiorari,"[8] it erroneously contends now that it may attack anew "the validity of the judgment on the counterclaim not on the ground of lack of or excess of jurisdiction or abuse of discretion, but on the ground of want of power and authority of the trial court in awarding damages, to defendant over which matter the Supreme Court declined to rule and to decide."[9] This posture of plaintiff now is the contrary of its position then that "the trial Court committed not a mere error of judgment but a capricious and whimsical exercise of judgment amounting to lack of jurisdiction."[10]

Plaintiff's present position is but a futile exercise in semantics: Since the lower court's jurisdiction to award damages to defendant was already sustained by this Court then, it can no longer question anew in this case the lower Court's "power and authority" to do so. This Court did not then decline to rule over the lower Court's jurisdiction or "power and authority" to award damages to defendant. What it held then, as it holds now, was that the findings and conclusions thereon of the trial Court on the basis of the evidence could only be reviewed in a proper appeal, but that, "not having moved for the reconsideration or for the lifting of the order of default, petitioner itself has foreclosed its right to appeal from the portions of the judgment which considered it in default."[11]

While plaintiff, as it so vehemently continues to insist for the most part of its brief, may have overcome the trial

court's find-ings of malicious prosecution, had it not been declared in default and had it not foreclosed itself its right to appeal, suffice it to say, as this Court pointed out then, that plaintiff "was not denied or deprived of that right, but lost it due to its own fault and negligence, for which it is exclusively to blame." [12] Plaintiff should finally realize that public policy and sound practice enshrine the fundamental principle of *res judicata* that parties ought not to be permitted to litigate the same issue more than once, as the very object for which courts were constituted was to put an end to con-troversies. Thus, the provisions of Rule 39, section 49 (b) that the effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, is "with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity." For, as was long enunciated by this Court, "it is a general rule common to all civilized systems of jurispru-dence that 'the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or state of facts, should be regarded as a final and conclusive determination of the question litigated, and should forever set the controversy at rest.' Indeed it has been well said that this maxim is more than a mere rule of law; more even than an important principle of public policy; and that it is not too much to say that it is a fundamental concept in the organization of every jural society." [13]

Here, plaintiff has in effect actually litigated or sought to liti-gate the very same issue of the validity or nullity of the award for damages against it and in favor of defendant's counterclaim not only once but thrice: in case G. R. L-16371 decided by this Court on March 28, 1961, in. Case G. R. L-20410 summarily dismissed for lack of merit by this Court on October 26, 1962 and for the third time in the present case. The remedy sought by him was consistently to set aside the award of damages and enjoin its exe-cution. That it has presented the present action in the guise of an action for annulment of the said judgment does not prevent the bar of the former adjudication of the first case against it. The corrolary principle of *res judicata* that "courts of the present day are not concerned so much with the form of actions as with their substance" and that "despite a difference in the form of the action, nevertheless the doctrine of *res judicata* would be applied where it appeared that the parties in the two suits were in truth 'litigating for the same thing,'" has just as long been enunciated by this Court. [14]

The trial Court, therefore, correctly ruled that it could not en-tertain the instant action, for it would "amount to a reconsideration of a final judgment" insofar as the judgment on the first and third causes of action of defendant's counterclaim in Civil Case No. 1760. as upheld by this Court in G. R. No. L-16371 was concerned, and that it could not likewise reconsider, by way of the annulment of judgment sought by plaintiff, the judgment on the second cause of action of defendant's counterclaim, as to which this Court set aside the order of default, in view of the pendency of the appeal on the merits thereof in the Court of Appeals. [15] As to the lower Court's ruling that its allegation of deception and betrayal by its counsel, being an intrinsic fraud, was not a cause for annulment of the judg-ment, plaintiff assigns no error and acknowledges that it made the allegation "not with the intention of advancing it as a further ground of the nullity of judgment, but to lay bare plaintiff's lost remedy in Civil Case No. 1760 because of its default." [16] If plaintiff's alle-gation be true, then its recourse is the proper administrative and legal action against its said counsel.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs in both instances against plaintiff-appellant.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Barredo, JJ., concur.
Concepcion, C.J., and Ruiz Castro, JJ., on official leave.
Capistrano, J., did not take part.

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- [1] Rec. on App. pp. 43-44.
- [2] *Zambales Colleges, Inc. vs. Hon. Lucas Lacson*, Judge, Court of First Instance of Zambales, the Provincial Sheriff of Zambales and Ciriaco Villanueva, CA-G. R. No. 24617-R.
- [3] An Amended Complaint, with a mere amendment in form, in the prayer was filed on August 7, 1961, Rec. on App. p. 47.
- [4] Paragraph 10, Complaint, Rec. on App. p. 10 and 55.
- [5] Rec. on App., p. 68.
- [6] Rec. on App., p. 84.
- [7] Appellant's brief, p. 4; emphasis reproduced.
- [8] Appellant's Brief, p. 7.
- [9] *Id.* p. 8, emphasis reproduced.
- [10] Plaintiff's Petition for reconsideration in G. R. L-16371, p. 1.
- [11] Decision, Appellant's Brief, p. 42, emphasis supplied. This doctrine has now been changed by Rule 41, section 2 of the new Rules of Court.
- [12] *Idem*, Appellant's Brief, pp. 42-44.
- [13] *Peñalosa vs. Tuason*, 22 Phil. 303, 310, (1912).
- [14] *Tanguinlay vs. Quiros*, 10 Phil. 360, 365 (1912), cited in *Pua vs. Lapitan* 107 Phil. 95 (1960).
- [15] *Supra*, page 4.
- [16] Appellant's Brief, p. 28.

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