

ANUNCIACION DEL CASTILLO, PETITIONER, VS. MIGUEL DEL CASTILLO AND THE HON. COURT OF APPEALS, RESPONDENTS.*G.R. No. L-33186. June 27, 1988*

Ponente: NARVASA, J.

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The petitioner asks for the reversal of the decision of the Court of Appeals,[1] invoking the familiar rule "that whenever an appeal is taken in a civil case, an appellee who has not himself appealed cannot obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court[2];" that, in other words, the appellee cannot seek modification or reversal of the judgment or affirmative relief, unless he has also appealed therefrom.[3] Application of the rule is all that is needed to adjudicate the appeal at bar.

The case originated in the Court of First Instance of Cebu[4] where an action for partition and damages was instituted by Miguel del Castillo and his brothers, Pablo and Flaviano, against their brother, Jacinto, and their sisters, Anunciacion and Agatona, who were co-owners of a parcel of land in Mandawe known as LotNo. 17911-5121 AMD, measuring approximately 9,030 square meters. Also impleaded as defendants were the vendees of the shares of Anunciacion and Flaviano.[5] The complaint prayed for the annulment of a deed of donation dated April 10, 1958 in favor of Anunciacion,[6] as well as of a Deed of Extra-judicial Partition dated June 11, 1962, the declaration of Miguel as coheir, the partition of the property equally among him and his brothers and sisters, and the payment of damages by the defendants.[7] Issues were joined and trial was had after which the Trial Court rendered judgment,[8] the dispositive part of which reads as follows:

"WHEREFORE, based on all the foregoing considerations, judgment is hereby rendered:

(a) Declaring the plaintiffs and defendants co-owners of the Lot No. 179 11-5121 and that the partition of the said lot into six parts, in the manner and form described and indicated in the sketch Exhibit C (also marked Exhibits 3-A-Anunciacion; 4-B-Flaviano and 7-A-Quano, as Sub-lots 179-A, 179-B, 179-C, 179-D, 179-E and 179-F), and assigning and adjudicating said six sub-lots to them, as follows:

- (1) To Anunciacion del Castillo. Sub-Lots Nos. 179-C and 179-F in the total area of 2,884 square meters;
- (2) To Agatona del Castillo, Sub-Lot No. 179-D, in the total area of 1,069 square meters;
- (3) To Jacinto del Castillo, Sub-Lot No. 179-E, in the total area of 1,035 square meters;
- (4) To plaintiff Pablo del Castillo, Sub-Lot No. 179-B, in addition to the adjacent portion of Sub-lot 179-A containing an area of 75.625 square meters, such that the total area of his portion is 1,846.625 square meters;
- (5) To plaintiff Miguel del Castillo, the portion of land lying between the said portion of Pablo del Castillo (Sub lot 179-B, plus 75.625 square meters of Sub Lot 179-A) and containing an area of 690.375 square meters and that this share and portion of plaintiff Miguel del Castillo shall be taken from said Sub-Lot 179-A; and
- (6) To Flaviano del Castillo, the remaining portion of said Sub- Lot 179-A, containing an area of 1,505 square

meters only.

(b) Declaring legal, valid and binding the documents Exhibits 2-Anunciacion, 1-Welison, 1-Ouano, 4-Ouano and F (trans. Exh. F-1) insofar as they do not encroach on the different portions assigned and adjudicated to each of the parties in the manner, form and areas just stated above; and

(c) Dismissing the mutual claims of damages, actual and moral, and expenses for attorney's fees alleged by one party against the other, for lack of justification; and that no pronouncement is made as to costs."

It is noteworthy that the Trial Court rejected Miguel del Castillo's claim of the invalidity of the deed of donation of April 10, 1958 executed by him in favor of his sister, Anunciacion, and declared him to be entitled only to a portion of the lot in question measuring 690.375 square meters, and his sister, Anunciacion, "to the ownership of another portion of the lot, consisting of her own share of one-eighth, in addition to another portion of one-eighth pertaining to her deceased mother which she acquired for having taken care of her until her death, both portions having an area of 2,257.5 square meters, plus the portion of 626.5 square meters of Miguel del Castillo's portion considered donated to her by him, or a total of 2,884 square meters." [9]

Only Flaviano del Castillo appealed from the Trial Court's judgment. [10] No one else did.

Flaviano appealed to the Court of Appeals; and that Court agreed that the Court a quo had committed two of the three errors assigned by him, i.e., (1) in not limiting the parties to "the presentation of evidence on the *** issues not covered by the pre-trial order," and (2) "adjudicating to plaintiff Miguel del Castillo 690.375 square meters, and to Pablo del Castillo 75.625 square meters all to be taken from the share of *** appellant Flaviano" in violation of the stipulation of facts in the pre-trial order as well as the agreement between Miguel and Flaviano, which had been duly approved by the Court. [11] Flaviano however categorically declared himself to be in conformity with the decision of the Trial Court in so far as it upheld the validity of (1) the deed of donation executed on April 10, 1958 by Miguel del Castillo in favor of his sister, Anunciacion, and (2) the deed of extra-judicial partition "executed by Pablo, Anunciacion, Jacinto, Agatona, and Flaviano all surnamed del Castillo on May 21, 1962, excluding *** Miguel del Castillo for having donated his share to his sister Anunciacion." [12] It is clear then that what Flaviano wished, at bottom, was to have the Lower Court's judgment modified in so far only as it directed that from his (Flaviano's) share in the common property should be taken part of the area adjudicated to Miguel. He did not wish, and he did not pray, that the deed of donation of April 10, 1958 in favor of Anunciacion be nullified; indeed, the closing line of the arguments in his brief expresses his view that the "plaintiffs complaint should have been dismissed, as the deed of donation was duly executed by *** Miguel del Castillo in favor of his sister, Anunciacion, *** and found by the (Lower) Court valid." [13] Yet this is what the Court of Appeals did: it declared the donation null and void in part.

The Appellate Court did not limit itself to the issues legitimately raised in the appeal — which, it must be stressed, did not at all include the validity of the adjudication in the deed of partition inter alia of Lots 179-F and 179-C in their entirety to Anunciacion del Castillo, with a total area of 2,884 square meters, and which the appellant Flaviano had, as aforesaid, in fact unequivocally acknowledged to be entirely proper and efficacious. It evidently took account of Miguel del Castillo's plea, in his brief as appellee, for the Court "to revise and modify" the findings of the Trial Court as regards his share, although this was objected to by Anunciacion who asserted that Miguel, not having appealed, could not be accorded any affirmative relief. [14]

In its decision, the Court stated that Miguel del Castillo had donated only 85 square meters of his share in the property owned in common, and that "Lot No. 179-F, which *** (had been) adjudicated to Anunciacion in addition to Lot No. 179-C pursuant to the deed of extra-judicial partition, should go to Miguel, less the 85 square meters he donated to Anunciacion." [15] It thus disposed of the appeal as follows [16]

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the judgment appealed from is hereby modified in the sense that plaintiff Miguel del Castillo is declared entitled to Lot No. 179-F, minus the 85 square meters which he donated to defendant Anunciacion del Castillo by virtue of the deed Exhibit 2-Anunciacion. The deed of extra-judicial partition, Exhibit 3-Anunciacion, is hereby declared null and void insofar as said Lot No. 179-F is concerned, and valid as regards the adjudication made therein of Lots Nos. 179-A, 179-B, 179-C, 179-D, and 179-E. ***."

Anunciacion del Castillo lost no time in moving for reconsideration of the Appellate Courts' decision. She pointed out that the decision of the Court a quo awarding Lot 179-F to her could no longer be disturbed since Miguel did not appeal therefrom; and in any case, the preponderance of evidence shows that Miguel did donate the whole of his share to her, and not merely 85 square meters thereof.[17] Her motion was denied by a minute resolution.[18] She filed a second motion for reconsideration, but this, too, was denied in another minute resolution.[19]

She then filed a petition for review on certiorari with this Court. The Court gave due course to her petition[20] and required the filing of briefs by the parties, but only the petitioner did so; hence, the case was "considered submitted for decision WITHOUT RESPONDENTS' BRIEF." [21]

The petition has merit. The Court of Appeals did indeed disregard the well known axiom referred to in the opening paragraph of this opinion, that an appellee in a civil case who has not himself appealed cannot obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court.[22] Miguel del Castillo did not appeal from the Trial Court's judgment and thus implicitly accepted it. It was his brother Flaviano who appealed. Miguel's role in Flaviano's appeal was simply that of an appellee. He could not therefore have asked for affirmative relief in the appellate proceedings; and the Court of Appeals had no power to grant him any such relief. As to Miguel, the judgment of the Trial Court had become final and unalterable. In disregarding the rule in question, for which no reason whatever has been advanced, the Court of Appeals incurred in serious reversible error.

Also erroneous was the unreasoned declaration in the appealed decision that what was donated by Miguel to Anunciacion was a portion of land measuring only 85 square meters. The text of the deed of donation leaves no doubt of Miguel's intention to donate the entire parcel of land therein described, not only a portion of it; not only 85 square meters of it. The donation is of "one parcel of land *** with improvements, *** situated in the barrio of Maguikay, Mandawe, Cebu, *** the boundaries of which are the following:

"On the North, by the land of Jacinto del Castillo; on the East, South and West; also by the land of Jacinto del Castillo, which contains an area of 85 square meters, more or less. The monuments on the sides are hard rock. ***."

The deed goes on to say that the donation of the land is a reward to Anunciacion for her "exceptional treatment and services *** (to Miguel) and *** family," and that she, as "donee of the parcel of land," accepts the donation. The stated area, "85 square meters, more or less," is clearly an error and should be disregarded, since the land meant to be donated was plainly that embraced within the specified boundaries. This error was admitted by Miguel himself who, according to Anunciacion had told her that the area should be "850 square meters, more or less." And this, too, i.e., that there was error in the statement of the area in the deed of donation, was the Trial Court's finding: it declared that the share of Anunciacion in the property owned in common should include "the portion of 626.5 square meters of Miguel del Castillo's portion considered donated to her by him." Nothing in the Appellate Court's decision justifies the disregard of these facts on record, or warrants a finding different from the Trial Court's.

WHEREFORE, the appealed judgment of the Court of Appeals is REVERSED AND SET ASIDE to the extent

that it nullifies the "deed of extra-judicial partition, Exhibit 3-Anunciacion *** insofar as *** Lot No. 179-F is concerned," and declares respondent Miguel del Castillo "entitled to (said) Lot No. 179-F." The judgment of the Trial Court adjudicating to petitioner Anunciacion del Castillo said Lot No. 179-F in its entirety, is hereby SUSTAINED. The rest of the Appellate Court's decision holding said deed of extra-judicial partition valid as regards the adjudication made therein of Lots Nos. 179-A, 179-B, 179-C, 179-D and 179-E, is AFFIRMED. Costs against private respondent.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] In CA-G.R. No. 35771-R promulgated on Aug. 8. 1970. Alvcndia, J., ponente and Nolasco and Muñoz.-Palma, JJ., concurring.

[2] Dy v. Kuizon, 3 SCRA 617, 619, petitioner also citing Mendoza v. Mendiola, 53 Phil. 267; Saenz v. Mitchell, 60 Phil. 69, 80; Villavert v. Lim, 62 Phil. 178; Bunge v. Camenforte, 91 Phil. 861; Pineda & Ampil Manufacturing Co. v. Bartolome, 95 Phil. 930; Gorospe v. Peñaflorida, 101 Phil. 886, 892-893; David v. de la Cruz, L-11656, April 18, 1958; 5 C.J.S. 1498; see also, cases cited in Feria, Civil Procedure, 1969 cd., pp. 716-717. to wit: Relativo v. Castro, el al., 76 Phil. 563, 567, Andaya v. Manansala, 58 O.G. 1 109; Oquiñena v. Canla, 87 Phil. 120, 123; Enecilla v. Magsaysay, L-21568, May 19, 1966, 123 Phil. 990.

[3] Saenz v. Mitchell, 60 Phil. 69. 80, supra; Relativo v. Castro, 76 Phil. 563, 567, supra. An appellee's brief is not required to contain an assignment of errors (Sec. 17, Rule 46), although it may, if the appellee's purpose is to sustain the judgment on other grounds (Bunge Corp. v. Camenforte & Co., 91 Phil. 861)].

[4] Docketed as Civil Case No. R-8082.

[5] Dr. Felix Quano and Wclison Ty & Co., respectively.

[6] Marked Exh. 2-Anuneiacion, infra.

[7] Rec. on Appeal, pp. 1-7; Rollo, p. 90 et seq.

[8] June 5, 1965, per Hon. Modesto R. Ramolete; italics supplied.

[9] Rec. on Appeal, pp. 78-79; Rollo. pp. 90 et seq italics supplied.

[10] Rec. on Appeal, pp. 32-34; Decision of the Court of Appeals of Aug-8. 1980, Rollo. p. 51.

[11] Decision of the Court of Appeals, Rollo, pp. 58 el seq.

[12] Brief for the Defendant-Appellant Flaviano del Castillo, pp. 20-22; Rollo, pp. 91 et seq.

[13] Brief, etc., pp. 40-41.

[14] Rollo, pp. 4-5.

[15] Id., p. 61.

[16] Id., pp. 61-62.

[17] Id., pp. 63-76.

[18] Id., p. 2.

[19] Id.

[20] Id, p. 87.

[21] Id., p. 105.

[22] Footnotes 2 and 3, page 1, supra.

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