

THE HEIRS OF ZOILO LLIDO, NAMELY: SATURNINA VDA. DE LLIDO, MARGARITO LLIDO, MIGUEL LLIDO, OLIMPIADES LLIDO, ANATOLIA LLIDO, EXUPERANCIA LLIDO, PURIFICACION LLIDO AND GLICERIA LL...*G.R. No. L-37079. September 29, 1988*

Ponente: PARAS, J.

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This is a petition for certiorari, prohibition and mandamus with preliminary injunction and/or restraining order seeking: (1) to annul the April 27, 1973 order of respondent judge in Civil Case No. 1644. "Heirs of Faustina and Camila Llido et al. vs. Heirs of Zoilo Llido;" (2) to restrain and prohibit respondent judge from allowing the appointed commissioners to qualify and begin to discharge their duties or if they have already and begin to discharge their duties or if they have already done so, to recall or cancel their appointments; and (3) to command respondent judge to order the dismissal of Civil Case No. 1644.

The original plaintiffs and defendant Zoilo Llido are the children of the late Eugenio Llido and Catalina Galopo. Those who have died are herein represented by their children or surviving spouses as the case may be.

Sometime before the war, the seven (7) children of the said deceased spouses, namely: (1) Dionisio; (2) Hilario; (3) Pedro; (4) Salome; (5) Zoilo; (6) Faustina; and (7) Camila, made an oral partition of the properties left by their parents. When Faustina died in 1944 and Camila in 1960, both having no descendant or ascendant, Zoilo and his eldest son Margarito took possession and enjoyment of their respective shares, as well as the exclusive properties of Faustina, as declared in the December 7, 1960 Decision of the then Court of First Instance of Bohol in Case No. 1148. Likewise, in the said decision, the court declared that her lawful heirs were her brothers and sister — Hilario, Dionisio, Zoilo and Camila.

Herein private respondents exerted efforts to partition the properties in question. In fact, after several oral demands, private respondents wrote Zoilo on October 2, 1963 (Record, p. 62), but Zoilo referred the matter to an attorney who spoke in his behalf in his reply dated October 5, 1963 (Ibid., p. 63).

On December 14, 1963, private respondents filed with the then Court of First Instance of Bohol, 14th Judicial District, a complaint for partition of real property. The same was docketed therein as Civil Case No. 1644.

After several amendments to the complaint and to the answer, and after trial, respondent judge, in a decision dated January 23, 1973 (Rollo, pp. 26-34), ordered the partition of the properties and gave the parties thirty (30) days to submit a project of their partition. The dispositive portion of the said decision, reads:

"In view of the foregoing, judgment is hereby entered re the following properties:

Parcel 1: A tract of residential land situated at Tejero, Jagna, Bohol as evidenced by Tax Dec. No. R-1 1048 in the name of Zoilo Llido having an area of 300 sq.m., more or less, and assessed at P480.00; bounded North by Angel Galorio, East by Tejero School site; South by Clarin Street, and West by Guadarama Street, which under

said oral partition will be equally divided between the said defendant Zoilo and plaintiff Dionisio Llido;

Parcel 2: A tract of cogonal land situated at Tejero, Jagna, Bohol as evidenced by Tax Dec. No. R-10891 in the name of Eugenio Llido having an area of .0708 of a hectare, more or less, and assessed at P-8.49; bounded North by Calle para Lonoy y Arroyo, East by Arroyo, South by Marina Abrea, and West by Calle para Lonoy which in the oral partition has been assigned to Camila Llido, Pedro Llido, Dionisio Llido and Salome Llido;

Parcel 3: A tract of corn and coconut land situated at Cambugason, Jagna, Bohol, as evidenced by Tax Dec. No. R-10893 in the name of Eugenio Llido having an area of .9400 of a hectare, more or less, and assessed at PI 81.52; bounded North by Lamberto Ranis, East by Barrio Road, South by River, and West by Mauricio Madera which in the oral partition was assigned to Faustina Llido, defendant Zoilo Llido, and plaintiff Hilano Llido;

Parcel 4: A tract of residential land situated at Tejero, Jagna, Bohol as evidenced by Tax Dec. No. R-10894 in the name of Eugenio Llido, having an area of 594 square meters, more or less, and assessed at P237.60; bounded North by Gabino Acala, East by Calle Manzanares, South by Melchor Llido, and West by Eusebio Caderna which under the partition orally agreed shall belong to Faustina Llido, Camila Llido, Pedro Llido, and Salome Llido;

Parcel 5: A parcel of land declared in the name of Policarpio Dagahuyawith Tax Dec. No. R-5366 with an area of .1054 of a hectare, assessed at P50.00; bounded North by Inocentes Daguitera, East by Anastacia Berro, South by Lorenzo Asibal and West by Valeria Achacoso, situated in Alejawan, Duero, Bohol;

Parcel 6: A parcel of land declared in the name of Policarpio Dagahuya situated at Alejawan, Jagna, Bohol with Tax Dec. R-6037 having an area of .0810 of a hectare, assessed at P40.00; bounded North by Crispulo Abueva, East by Ceferina Acedo, South by Nicolas Macarini, and West by Patrona Caderna;

Parcel 7: A parcel of land declared in the name of Policarpio Dagahuya under Tax Dec. No. R-6038, situated at Cambugason, Jagna, Bohol, having an area of .0930 of a hectare and assessed at P120.00; bounded North by Arroyo, East by Gabina Acala, South by Gabino Acala, and West by Arroyo;

Parcel 8: A parcel of land declared in the name of Policarpio Dagahuya situated in Alejawan, Jagna, Bohol under Tax Dec. No. R-6039 having an area of 1 Ha., of riceland, 2 has of coconut land with an assessed value of P1,370.00; bounded North by river, East by Ramen Cachero and Pablo Cachero, South by Adriano Acas and Ildfonso Cachero, and West by River with improvement thereon;

Parcel 9: A parcel of land declared in the name of Policarpio Dagahuya under Tax Dec. No. R-20223 situated at Alejawan, Jagna, Bohol having an area of .1925 of a hectare and assessed at P60.00; bounded North by Maximo Besas, East by Policarpio Galpo, South by Petrona Madeha, and West by Maximo Dano; and

Parcel 10: A parcel of land declared in the name of Policarpio Dagahuya situated at Mambool, Duero, Bohol under Tax Dec. No. R-5368 having an area of .0920 of a hectare and assessed at P50.00; bounded North by Simon Dagahuya, East by Macario Dagahuya, South by Agustin Dagahuya, and West by Lazaro Madrijanon, —

(which) are hereby ordered partitioned among the parties in this case; and they are given a period of 30 days from notice hereof within which to submit to this Court a project of their partition."

On March 26, 1973, private respondent filed a Motion for Execution and Deposit Farm Produce (Rollo, pp. 35-36), which was opposed by petitioners (Ibid., pp. 43-45), giving the following reasons — (1) the decision is actually interlocutory in nature and therefore not proper yet for execution; (2) it is issued in excess of or after loss of jurisdiction; and (3) in the meanwhile the possession of the defendants, which is presumed to be lawful until otherwise shown, is entitled to be respected — this with respect to the move to have the forthcoming crops deposited. " the same opposition, petitioners informed the lower court, hat Hilario died during the pendency of the

case and the private respondents did not make the necessary amendment. Accordingly, the judgment includes a dead person as a party to the case, spoiling the expected legality and binding effect of the decision in question.

In an order dated March 31, 1973 (*Ibid.*, p. 48), respondent judge, upon failure of the parties to submit the project of partition within thirty (30) days, gave them another twenty (20) days to submit the same with warning that if they fail to do so, the court will appoint commissioners to partition the properties. The decretal portion of said order, reads:

"UNDER THE PRESENT CIRCUMSTANCES, as both plaintiffs and defendants are unable to agree because of their failure to submit the project of partition, instead of a writ of execution, the Court gives to both plaintiffs and defendants a period of twenty days from receipt of copy hereof to submit the project of partition, and if they fail to do so, the Court will apportion the properties appointing commissioners to partition them in accordance with the apportionment of the court as provided in Sec. 3, Rule 69."

On April 2, 1973, private respondents filed a Motion for the court to appoint a commissioner to assist the parties in preparing their project of partition (Original Records, pp. 222-223). In the same motion, two (2) telegraphic messages were quoted purporting to show that most likely the petitioners were unwilling to submit themselves to a partition as ruled by the court. Accordingly, they prayed that an order be issued appointing a commissioner only for the purpose of the project of partition.

In an order dated April 27, 1973, respondent judge appointed three (3) commissioners (Rollo, p. 51) —

"ACCORDINGLY, the Court hereby appoints Atty. TEODORO N AZARENO, Judge FRANCISCO C AGULADA, and whoever officer or employee in the Assessor's Office that the Provincial Assessor may name for this case — these three persons to constitute the COMMISSIONERS OF PARTITION under Section 3, Rule 69."

This was opposed by petitioners on the grounds that: (1) the court did not have jurisdiction to issue the order; and (2) the court had apparently overlooked the fact that the order modified the decision which on the date of issuance of the order, April 27, 1973' had long been past the 30-day period, and under that particular circumstance, as judgments go, even the court issuing it did not have the power nor authority to modify it (*Ibid.*, pp. 52-53). Their opposition, however, was denied in an order dated May 28, 1973 (*Ibid.*, pp. 56-57). Hence, the instant petition.

This Court, in a resolution dated July 11, 1973, resolved to require the respondents to file an answer (*Ibid.*, p. 74), and in compliance therewith, public respondent Clerk of Court filed his answer on August 15, 1973 (*Ibid.*, pp. 81-82), while private respondents filed their comment and answer on August 29, 1973 (*Ibid.*, pp. 87-102).

In compliance with the resolution of September 6, 1973, requiring the parties to submit their respective memoranda (*Ibid.*, p. 107), private respondents filed their memorandum on September 26, 1973 (*Ibid.*, pp. 112-121), and petitioners filed their memorandum on October 30, 1973 (*Ibid.*, pp. 127-135).

In the resolution of November 8, 1973, this Court resolved to consider the case submitted for decision (*Ibid.*, p. 136).

Petitioners raised two (2) assignments of error, to wit:

I

RESPONDENT JUDGE ILLEGALLY DELEGATED TO UNAUTHORIZED THIRD PERSONS THE DISCHARGE OF SOME JUDICIAL DUTIES WHICH HE ALONE, AS JUDGE, MUST PERSONALLY DO, THEREBY VIOLATING SECTION 3, RULE 69 OF THE RULES OF COURT; and

II

RESPONDENT JUDGE IGNORED THE VALID ORAL PARTITION MADE BY THE PARTIES OF THE PARCELS INDICATED AS NOS. 1,2, 3 AND 4 IN THE COMPLAINT AND WHICH PARTITION THE PARTIES ADMITTED THEY WANTED TO RESPECT ALTHOUGH THE PLAINTIFFS WANTED THE AGREEMENT REDUCED IN WRITING — THEREBY VIOLATING SECTION 2 OF THE SAME RULE.

The instant petition is without merit.

Petitioners contend that respondent judge acted beyond his jurisdiction when he issued his order of April 27, 1973, appointing a set of commissioners to effect a partition of the properties without stating in the order itself the parts or portions of the properties that should appertain to the parties as required under Section 3, Rule 69, of the Rules of Court; and in ignoring the valid oral partition entered into by the parties.

Petitioners' contention is untenable.

It will be recalled that respondent judge, in his decision of January 31, 1973 ordered the partition of the enumerated properties and gave the parties thirty (30) days from notice thereof within which to submit a project of partition.

Having failed to submit said project, the parties were given another twenty (20) days to submit the same, otherwise, commissioners would be appointed to effect the partition.

Again the parties failed to submit a project of partition. Consequently, respondent judge issued his questioned order of April 27, 1973, appointing the commissioners.

Likewise, the records show that the parties were unable to submit a project of partition because the petitioners were unwilling to submit themselves to a partition (Telegrams, Rollo, pp. 105 and 106).

In view of the foregoing, it is evident that the instant petition should be dismissed. Petitioners should not be rewarded for disregarding the orders of respondent judge. This Court, in the case of PABLU vs. Salvador (L-29471 and L-29487, September 28, 1968), reiterated in the case of Republic Commodities Corp. vs. Oca (33 SCRA 24, 27-28 [1970]), ruled:

"x x x. Such refusal to accord due respect and yield obedience to what a court or administrative tribunal ordains is fraught with such grave consequences x x x. If such a conduct were not condemned, some other group or groups emboldened by the absence of any reproof or disapproval may conduct themselves similarly. The injury to the rule of law may well-nigh be irreparable.

"x x x. When judicial or quasi-judicial tribunals speak, what they decree must be obeyed; what they ordain must be followed. A party dissatisfied may ask for reconsideration and, if denied, may go on to higher tribunal. As long as the orders stand unmodified, however, they must, even if susceptible to well-founded doubts on jurisdictional grounds, be faithfully complied with."

Moreover, errors in the exercise of jurisdiction are mere errors of judgment which are correctible by appeal, and in the absence of appeal a decision or order, whether erroneous or not, becomes final and binding upon the parties (Araneta vs. Commonwealth Insurance Co., 103 Phil. 522). The proportions to be followed in the partition are those referred to in the dispositive portion of the decision, that is, EQUALLY among all those entitled to each specific parcel of land, as enumerated therein.

PREMISES CONSIDERED, the instant petition is hereby DISMISSED.

SO ORDERED.

Melencio-Herrera (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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