

FILIPINO LEGION CORPORATION, PETITIONER, VS. THE COURT OF APPEALS, ENRIQUE LENTIJA, AQUILINO SANTIAGO, FELIX IMPREDO, CANDIDO BUARON, EULOGIO PAULIN, COLANO CAAYON, NOEL MAGALON...

G.R. NO. L-22364. April 30, 1974

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Before us for review are: (1) Resolution of the Court of Appeals in CA-G.R. No. 9196-R, November 8, 1963, docketed here as G.R. No. L-22364, and (2) Decision of the same Court in CA-G.R. No. 29274-R, September 26, 1967, docketed as G.R. No. L-28330.

The common factual background of these two appeals follows:

On January 8, 1948, the Filipino Legion Corporation (to be referred hereinafter as the Corporation) instituted an action with the Court of First Instance of Davao (civil case No. 151) wherein it claimed ownership of a 360-hectare land located in Nabunturan, Compostela, province of Davao, and sought to eject therefrom the following: Enrique Lentija, Aquilino Santiago, Felix Impredo, Candido Buaron, Eulogio Paulin, Colano Caayon, Noel Magalona, Juan Arabejo and Fausto Minor, to all of whom we shall refer henceforth as Lentija, et al.[1]

To prove its ownership over the 360 hectares, the Corporation submitted as part of its documentary evidence the following:

Exhibit C

—

A deed of absolute sale executed in favor of the Corporation by Francisca S. Lacson for and in consideration of P5,000.00 dated January 29, 1947, covering a parcel of land described as follows:

"A parcel of agricultural land situated in Nabunturan, Compostela, Davao. Bounded on the North, by Cabalanan, Creek and property of Candido Pahit; on the East, by Public Land and G. Bagaipo; on the South by public Land and Bapal and on the West, by the Davao-Agusan Road. Containing an area of three hundred and sixty (360) hectares, more or less, the same is assessed for P15,120.00 under Tax Declaration No. 1498 of the province of Davao." (p. 32, rollo, L-22364)

Exhibit D

—

Tax Declaration No. 1498 in the name of the Corporation covering several parcels with a total area of 360 hectares which document is also labelled as Annex "F";[2]

Exhibit E

—

Affidavit of Atty. Tomas D. Doromal attesting to his having prepared several deeds of sale executed by natives in favor of Francisca S. Lacson;[3]

Exhibit F

—

Tax Declaration No. 1112 in the name of Eglem (Mandaya) covering 24 hectares, which document is also marked as Annex "C";[4]

Exhibit G

—

Tax Declaration No. 1029 in the name of Mabangyat (Mandaya) involving 4 hectares, which document is likewise labelled as Annex "D";[5]

Exhibit H

—

Tax Declaration No. 1076 in the name of Malagdao (Mandaya) for 8 hectares, which document is also marked as Annex "E";[6]

Exhibit I

—

Tax Declaration No. 1111 in the name of Mrs. Francisca Lacson covering a total area of 12 hectares;[7]

Disputing the Corporation's claim of ownership over the 360 hectares, Lentija, et al. alleged inter alia in their Answer to the complaint that the land occupied by them is part of the public domain; that they acquired their rights to possess said lands from native Mansakas who have been in possession since time immemorial; and that the land being public land, the same is administered by the Director of Lands whose policy is to distribute lands of the public domain to actual occupants thereof and to those who have introduced improvements thereon.[8]

After receiving the evidence of the parties, the Court of First Instance of Davao rendered on August 29, 1951, its decision in Civil Case No. 151, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING considerations, and in view further of the policy of the government as reported by the Director of Lands in Exh. "9" and furthermore the occupation of the defendants herein has been established by preponderance of evidence, judgment is hereby rendered dismissing the complaint with costs against the plaintiff." (pp. 34-35, Amended Record on Appeal, CA-G.R. No. 9196-R, rollo, L-8047)

The decision of the trial court in civil case 151 was appealed by the Corporation to the Court of Appeals (CA-G.R. No. 9196-R) and said Court in a judgment promulgated on March 15, 1954, modified the appealed decision in the following manner:

"It cannot be denied that Mrs. Lacson, way back in 1936, had entered upon the possession of a parcel of land located in Nabunturan, Compostela, Davao, which she declared for taxation purposes in her name under tax No. 1111 (Exh. I and I) in 1938. This piece of land, however, was only 12 hectares in area. Mrs. Lacson claims nevertheless that since she entered upon the occupation of that small parcel she had acquired by purchase the

rights of certain Mansakas named Malagdan, Ilong (Iglem), Mabanguiat and Bancailan. The property supposed to have been acquired from Malagdan is the parcel of 8 hectares referred to in the declaration of real property Exhibit H, that acquired from Mabanguiat is the one covered by the declaration of real property Exhibit G covering 4 hectares, and that from Iglem is the one covered by declaration of real property Exhibit F covering 24 hectares. However, even adding the area of these properties to the area of the parcel originally occupied by Mrs. Lacson, the total area (48 hectares) would be far from the 360 hectares supposedly occupied by her up to the declaration of war in December, 1941 and alleged to have been sold by her to appellant corporation. x x x.

"Summarizing, therefore, we come to the conclusion that the evidence of record sufficiently proves that Mrs. Lacson had entered upon the possession of around 12 hectares of land, included in the much bigger parcel subject matter of this action, way back in 1936; that while improving the same, she also acquired the possessory rights and improvements of Mansakas named Malagdan, Iglem, Mabanguiat and Bancailan and occupied the lands of the latter until the outbreak of the last world war. Upon the other hand, the evidence of record shows, at best, that the possession enjoyed by appellees dates back only to 1937, in the case of Enrique Lentija and Juan Lorejo, to 1939 in the case of Vicente Lintes and Ulderico Dual, to 1944 in the case of Aquilino Santiago and to two or three years later in the case of other appellees. It is clear therefore that, as appellant contends, the possession of most of the appellees commenced only after the war and before Mrs. Lacson could return to repossess herself of the lands that she had abandoned because of the abnormal conditions created by the war.

"In view of all the foregoing, we hold that appellant has succeeded in establishing by at least a preponderance of evidence, prior possession and a better right of possession to the parcels of land described in the declaration of real property now in the record as Exhibits I (Exh. 1), C, D and E. There being no evidence identifying the parcel subject-matter of the sale made by Bancailan in favor of Mrs. Lacson, although it is apparently assumed that it is comprised within the big parcel described in the complaint, no specific pronouncement can be made regarding the same in this decision.

"Wherefore, it is the judgment of this court that the appealed judgment should be as it is hereby modified by declaring that appellant is entitled to the possession of the parcels of land mentioned in the next preceding paragraph and the appellees or whomsoever amongst them is in possession thereof are hereby ordered to vacate the same and to deliver their possession to appellant, without costs.

"MODIFIED AS ABOVE INDICATED, the appealed judgment is affirmed in all other respects." (pp. 9-12, rollo L-8047)

Lentija, et al. elevated on certiorari the abovementioned decision of the Court of Appeals to the Supreme Court (G.R. No. L-8047), but the petition for review was dismissed in a Resolution dated November 9, 1954, on the ground that the question raised was factual and unsubstantial.

Thus far, we have the facts common to both appeals.

I – We shall now proceed with the circumstances leading to the Petition for Review in L-28330.

After the record of Civil Case No. 151 (CA-G.R. No. 9196-R, G.R. No. L-8047) was remanded to the Court of First Instance of Davao, a motion for execution of final judgment was filed by the Corporation, and the trial court granted the same and in an order dated March 10, 1955, it commanded the sheriff or its deputies of the province of Davao "to cause the defendants (Appellees) in the above entitled case, ENRIQUE LENTIJIA ET AL., and all persons described under them to vacate the parcel of land described in Exh. I (Exh. 1), x x x and the plaintiff (Appellant) Filipino Legion Corporation be restored to and placed in the possession of the same, x x x".[9]

On May 30, 1956, the Corporation filed with the same court a motion for demolition and contempt of court

alleging that because Lentija, et al., and all persons claiming under them still continued to occupy and refused to vacate the land notwithstanding the issuance of the writ of execution of March 10, 1955, it was necessary for the Court to order said persons to remove and/or demolish their houses and other constructions existing on its property. The motion was opposed by Lentija, et al. who claimed inter alia that certain circumstances had arisen since the decision was rendered in civil case 151 which changed the situation of the parties, such as, the Director of Lands subdivided portions of the land in question into residential lots which were the subject of several cadastral cases pending hearing before the courts, hence, any order of demolition should be held in abeyance pending decision of said cadastral cases. Lentija, et al. further argued that although the decision sought to be executed stated that the Corporation had better right of possession to "parcels of land described in the declarations of real property now in the records as Exhibits I (Exh. 1), C, D and F", however, what the decision actually meant were the documents marked as annexes C, D and E, which are tax declarations covering a total area of only 48 hectares. Exhibit C not being a tax declaration but is a deed of sale executed by Francisca Santibanez in favor of Filipino Legion Corporation, whereas Exhibit E is an affidavit of Tomas Doromal.[10]

Notwithstanding the foregoing opposition, the trial court on June 16, 1958, issued an order directing Lentija, et al. to vacate within sixty (60) days from notice otherwise the buildings constructed by them would be demolished after said period.[11]

A motion for reconsideration was filed by Lentija, et al. stressing that the decision of the Court of Appeals did not reverse but merely modified the decision of the trial court and recognized the right of the Corporation only to a portion of 48 hectares of the 360 hectares originally claimed by it, and that there being no proof that they (Lentija, et al.) were within the 48 hectares won by the Corporation, they could not be ejected from the portions actually occupied by them.[12]

In an order dated August 12, 1958, the trial court denied the motion for reconsideration;[13] hence, Lentija, et al. appealed to the Court of Appeals which was docketed as CA-G.R. 29274-R. On September 26, 1967, the Court of Appeals affirmed the orders of the trial court dated June 16 and August 12, 1958, holding that the order of execution issued by the Court a quo was in consonance with the final judgment in CA-G.R. 9196-R. It is from this decision of the Court of Appeals in CA--G.R. 29274-R that Lentija, et al. now seek a review in L--28330.

II – The incidents which in turn gave rise to the Petition for review under L-22364 follow:

While the appeal in CA-G.R. 29274-R was pending before the Court of Appeals, Lentija, et al. filed with said appellate court in CA-G.R. 9196-R a "Motion for correction of clerical errors" wherein it was prayed that "the phrase 'Exhibits I (Exh. 1), C, D and E' appearing on line 5, par. 2, page 6 of the Decision be corrected to read 'Exhibits I (Exh. 1), F (Annex C), G (Annex D), and H (Annex E).'" In support of their motion, Lentija, et al. alleged that the decision rendered in CA-G.R. 9196-R found the Filipino Legion Corporation a rightful claimant to only 48 hectares out of the 360 hectares which the latter sought to recover from them; that these 48 hectares are made up of 4 parcels of land described in tax declarations respectively marked as:

- "(a) Exh. F – tax declaration for 24 hectares acquired from Iglem,
- (b) Exh. G – tax declaration for 4 hectares acquired from Mabanguiat;
- (c) Exh. H – tax declaration for 8 hectares acquired from Malagdan;
- (d) Exh. I – tax declaration for 12 hectares (I.d. No. 1111)" (p. 23, rollo L-22364);

that while it was very clear that the Court of Appeals found the Corporation having a right of possession over the aforesaid 4 parcels of land represented by Exhibits F, G, H and I, however, the dispositive portion of the decision identified the four (4) parcels of land as those covered by Exhibits I, C, D and E which obviously was a clerical

error which needs to be corrected. The motion, therefore, prayed that the dispositive portion of the decision in CA-G.R. 9196-R be corrected accordingly.[14]

Acting on the abovementioned "Motion for correction of clerical errors", the Court of Appeals on November 8, 1963, thru its Second Division at the time composed of then Messrs. Justices Conrado V. Sanchez, Enrique A. Fernandez, and Juan P. Enriquez, promulgated a Resolution ordering the correction of the corresponding portion of the decision of March 15, 1954,[15] in the following manner:

"WHEREFORE, the phrase 'Exhibits I (Exh. 1), C, D and E' in line 5 of the first paragraph of page 6 of the decision of this Court herein is hereby corrected to read: Exhibits I (Exh. 1), F (Annex C), G (Annex D), and II (Annex E)." (p. 55, rollo L-22364)

The correction was justified in the Resolution thus:

"Obviously, the Court's reference to Exhibit C, D and E is faulty. Exhibits C and E are not tax declarations – Exhibit C is a deed of sale, while Exhibit E is an affidavit. Exhibit D is the tax declaration No. 1498 covering the same parcel of land subject-matter of Exhibit C, that is, 360 hectares – the total area claimed by appellant in the complaint. No land is described in Exhibit E.

"The total area of the lands described in Exhibits I, C and D is 732 hectares, broken down as follows: Exhibit I, 12 hectares; Exhibit C, 360 hectares; and Exhibit D, 360 hectares. Whereas, the aggregate area claimed in the complaint, as aforesaid, is only 360 hectares. And, this Court clearly stated in its decision that appellant's claim was established only as to 48 hectares out of the 360 hectares sought.

"The discrepancy, obviously, arose from the fact that Exhibit F is also marked as Annex C; Exhibit G as Annex D; and Exhibit H as Annex E. Such that, in referring to said exhibits in the decision, their markings as Annexes C, D and E were used instead of their designation as Exhibits F, G and H, respectively. This is confirmed by the fact that the area described therein, to wit: Exhibit F (Annex C), 24 hectares; Exhibit G (Annex D), 4 hectares; and Exhibit H (Annex E), 8 hectares; plus that in Exhibit I (Exh.1), 12 hectares, make up a total of 48 hectares – exactly the number of hectares awarded in the decision of this Court.

xxx xxx xxx

"x x x the error here is not one which 'goes to the very substance of controversy' (Contreras, et al. vs. Felix, et al., supra); it was not 'the result of the exercise of judicial function'. I Freeman on Judgments, p. 284. Hence, it is not a judicial error. Rather, it was due to mere inadvertence in referring to the exhibits by their markings as annexes, which, the decision clearly shows, is but clerical." (pp. 53-54, rollo L-22364; italics supplied)

Upon receipt of a copy of the above-quoted Resolution, the Corporation moved for a reconsideration pointing out that the correction affected the very substance of the controversy which was beyond the Court's jurisdiction to order after a lapse of almost ten years from the time of the promulgation of the decision of March 15, 1954.[16] This motion for reconsideration was, however, denied by the Court of Appeals on January 3, 1964.

Hence, this Petition for certiorari in L-22364.

III – The result of these two petitions for certiorari necessarily hinges on the correct and proper construction of the decision in CA-G.R. 9196-R; for, said decision, as claimed by the Corporation, sustained and recognized the latter's ownership and right of possession over 360 hectares of land, then the Resolution in CA-G.R. 9196-R, of November 8, 1963, is to be declared null and void as it in effect reduced the area of the land to which the Corporation is allegedly entitled, that is, from 360 to 48 hectares, while the Decision in CA-G.R. 29274-R, September 26, 1967, upholding the issuance of a writ of execution in CFI civil case 151 over a 360-hectare piece of land is to be affirmed it being in accordance with the aforesaid decision.

Petitioner Corporation now asserts^{16a} that the "dispositive portion of the decision adjudicating the parcel of land referred to in Exhibits I (Exh. 1), C, D, and E," to the Corporation is fully supported by the body of the decision, and that the respondent Court erred in "holding that, 'the Court's reference to Exhibits C, D and E is faulty' and that, 'it was due to inadvertence in referring to the exhibits by their markings as annexes, which, the decision clearly shows, is but clerical.'" (p. 6. Petitioner's brief, p. 92, rollo L-22364)

Our attention is called to the following paragraph of the decision, and We quote:

"Summarizing, therefore, we come to the conclusion that the evidence of record sufficiently proves that Mrs. Lacson had entered upon the possession of around 12 hectares of land, included in the much bigger parcel subject-matter of this action, way back in 1936; that while improving the same, she also acquired the possessory rights and improvements of Mansakas named Malagdan, Iglem, Mabanguiat and Bancailan and occupied the lands of the latter until the outbreak of the last world war. Upon the other hand, the evidence of record show, at best, that the possession enjoyed by appellees dates back only to 1937, in the case of Enrique Lentija and Juan Lorejo, to 1939 in the case of Vicente Lintes and Ulderico Dual, to 1944 in the case of Aquilino Santiago and to two or three years later in the case of other appellees. It is clear therefore that, as appellant contends, the possession of most of the appellees commenced only after the war and before Mrs. Lacson could return to repossess herself of the lands that she had abandoned because of the abnormal conditions created by the war." [17]

The Corporation also contends that there is no inconsistency between the statement found in the body of the decision that "appellant's claim has been partially established" and that of the dispositive portion on which held that "appellant has succeeded in establishing by at least preponderance of evidence, prior possession and a better right of possession to the parcels of land described in the declarations of real property now in the record as Exhibits I (Exh. 1), C, D, and E."; and that even if there were such an inconsistency, it is the settled rule for purposes of res judicata or execution, that the dispositive part controls the expressions made in the body of the opinion. (pp. 10-11, Petition L-22364)

Examining the decision in CA-G.R. 9196-R of March 15, 1954, We cannot agree with the Corporation that its claim over 360 hectares of land was recognized and upheld in said decision, for the following reasons:

First – It is to be recalled that the Corporation's complaint in CFI civil case 151 was for a declaration of ownership and recovery of possession of a 360-hectare land from which it sought to eject Lentija, et al. This complaint was dismissed in toto by the trial court for insufficiency of evidence, after it found that the land was of public domain. The Corporation appealed the decision to the Court of Appeals and the latter modified the judgment holding that the claim of appellant Corporation was partially established by the latter's evidence, and with that modification the appellate Court affirmed the trial court's decision in all other respects. It is correctly argued, therefore, by Lentija, et al. [18] that if the decision in CA-G.R. 9196-R upheld the claim of the Corporation over 360 hectares, said decision would have reversed the trial court's judgment and not merely modified the same as so stated in the last paragraph of the decision which We quote:

"MODIFIED AS ABOVE INDICATED, the appealed judgment is affirmed in all other respects." (p. 7, Decision found in p. 12, rollo L 8047)

Second – the appellate Court's appraisal of the evidence of the Corporation supports the contention of Lentija, et al. that only 48 hectares were found and held by said Court to belong to the Corporation. This is clear from the enumeration of the documents which according to the appellate Court, established or proved the possession of Mrs. Francisca Lacson (the Corporation's predecessor-in-interest) over certain parcels of land with a total area of 48 hectares, and which We are giving hereunder in the order they are mentioned in the second paragraph of page four of the decision, to wit:

Exhibit I

—

Tax declaration No. 1111 in the name of Mrs. Francisca Lacson covering an area of 12 hectares;

Exhibit H

—

Tax declaration No. 1076 for 8 hectares acquired by Mrs. Lacson from Malagdan, a native Mansaka;

Exhibit G

—

Tax declaration No. 1029 for 4 hectares acquired by purchase by Mrs. Lacson from Mabangyat (Mandaya); and

Exhibit F

—

Tax declaration No. 1112 for 24 hectares bought by Mrs. Lacson from Eglem (Mandaya). (see p. 9, rollo L-8047, p. 4, this Decision)

On the basis of the above-enumerated documents of the Corporation, the Court of Appeals concluded that adding the area of the parcel of land actually occupied by Mrs. Lacson which was 12 hectares (Exh. I), and those bought by her from the native Mansakas, i.e., 8, 4, and 24 hectares respectively, (Exhs. H, G, & F), the total of 48 hectares "would be far from the 360 hectares supposedly occupied by her (Mrs. Lacson) up to the declaration of war in December, 1941, and alleged to have been sold by her to appellant corporation." [19]

The very paragraph of the decision invoked by the Corporation to sustain its position [20] supports our findings in this regard, as can be seen from the pertinent portion thereof which we quote:

"Summarizing, therefore, we come to the conclusion that the evidence of record sufficiently proves that Mrs. Lacson had entered upon the possession of around 12 hectares of land, included in the much bigger parcel subject-matter of this action, way back in 1936; that while improving the same, she also acquired the possessory rights and improvements of Mansakas named Malawian, Iglem, Mabanguiat and Bancailan and occupied the lands of the latter until the outbreak of the last world war." x x x. (Italics supplied)

Note that in the above-quoted paragraph, the names of the Mansakas from whom Mrs. Lacson acquired certain "possessory rights and improvements", are specifically mentioned, namely: Malagdan, Iglem, Mabanguiat, and Bancailan, and that the first three were the very same persons whose respective tax declarations were considered sufficient to establish the acquisition by Mrs. Lacson of 36 hectares which added to the 12 hectares in the latter's possession could have been the only area sold by Mrs. Lacson to the Corporation. [21] With respect to the possessory rights sold by Bancailan to Mrs. Lacson, the same were not added to the 48 hectares mentioned earlier because as declared in the aforesaid decision:

"x x x There being no evidence identifying the parcel subject-matter of the sale made by Bancailan in favor of Mrs. Lacson, although it is apparently assumed that it is comprised within the big parcel described in the complaint, no specific pronouncement can be made regarding the same in this decision." [22]

Third – While it is true that in the disputed or sought-to-be corrected paragraph the appellate Court identified the parcels of land over which the Corporation had "a better right of possession to the lands "described in the declaration of real property now in the record as Exhibits I (Exh 1) C, D, and E" (italics supplied) however as

correctly held by respondent Court in its Resolution now on appeal, the reference in said paragraph to "Exhibits C, D, and E." was "faulty because: Exhibit C is not a tax declaration but is a deed of absolute sale executed by Francisca S. Lacson in favor of the Corporation of a 360-hectare land, Exhibit D is a tax declaration in the name of the Corporation covering the 360 hectares allegedly bought from Mrs. Lacson the ownership and possession of which was not fully established as found in the appraisal of the evidence, while Exhibit E is not a tax declaration, but is an affidavit of Atty. Tomas D. Doromal attesting to his preparation of several deeds of sale executed by native Mansakas in favor of Mrs. Lacson, without a description of the particular areas involved. Moreover, as reasoned out in the Resolution, the total area of the lands described in Exhibits C, D, and E is 732 hectares which would be even more than the aggregate area claimed in the complaint.

What the appellate Court actually had in mind when it mentioned Exhibits C, D, and E in that particular paragraph were the tax declarations marked as Exhibits F, G, and H which it had earlier discussed in the second paragraph in page 4 of its decision and which together with Exhibit I covered a total area of 48 hectares.[23] The mistake or error committed in identifying the documents concerned was, however, caused by the fact that Exhibits F, G, and H were also 1 labelled or marked on their face as "Annex C", "Annex D", and "Annex E" respectively, and these letterings "C", "D", and "E" were the ones inadvertently used in the paragraph in question.

IV – The mistake in the designation of the documents is purely clerical as it is not one which involves an exercise of judicial function.[24] Apropos are the following statements from Freeman on Judgments to which respondent Court likewise made reference and We quote:

"Mistakes of description frequently occur in judgments or decrees, particularly where land is the subject matter of the litigation. Errors of this sort have often been corrected by nunc pro tunc amendments, where due either to the failure of the clerk to correctly enter the judgment or to the inadvertence of the court. Thus mistakes in naming the points of the compass, or by designating lots, parcels, plats and tracts by the wrong numbers, or by giving the wrong figures of ranges and townships have been recognized as clerical errors, as have mistakes in courses, distances and calls. So a judgment which, through such mistake or inadvertence, embraces more land than is in issue or claimed by the plaintiff may be amended. x x x Insufficiency or uncertainty of description correctible from the remainder of the record has likewise been amended." (Vol. 1, pp. 296-297)

The Corporation contends, however, that any change made in the disputed paragraph under the guise of a correction of a clerical error affects its substantial rights because it substantially reduces the area adjudicated to it from 360 hectares more or less to 48 hectares which would be a new and extraordinary adjudication and a most dangerous precedent if such a wide departure of orderly procedure is permitted.[25]

The fallacy of the Corporation's argument lies in its mistaken interpretation or construction of the decision in CA-G.R. 9196-R. We pointed out that the decision in CA-G.R. 9196-R recognizes the right of the Corporation to only a portion of 48 hectares of the 360 hectares claimed by it, and it is for that reason that the decision of the trial court which dismissed in toto the Corporation's complaint was modified, the claim of the Corporation having been partially established.[26] Under the decision the Corporation was entitled only to the areas comprised within the boundaries of the lands described respectively in tax declarations Exhibits F, G, H and I.[27] Nothing that was given to the Corporation in the body of the decision of March 15, 1954 was taken away by the correction ordered by respondent Court in its Resolution of November 8, 1963; all that the correction did was to cure or erase the ambiguity caused by the mistaken identification of the documents involved. In other words, the dispositive portion of the decision was made to conform with the dispositions made in the main body of the judgment insofar as the description of the pertinent documents was concerned.

V – The Corporation avers that for purposes of execution of a decision, it is the dispositive portion thereof which is to be followed and this is true even if there is a discrepancy between the latter and the opinion expressed in the

body of the decision.

This Court in various instances stated the rule that the dispositive part of a decision contains the judgment of the court which is to be the subject of execution,[28] irrespective of all seemingly contrary statements in the body of the decision itself,[29] and in case of any omission, exclusion, or discrepancy between the opinion set forth in the decision proper and the dispositive part, the latter prevails.[30]

Equally true, however, are the following principles also enunciated by the Court, viz: that the dispositive part of a decision must find support from the decision's ratio decidendi[31] because

""While the opinion of the court is not part of the judgment, it may, in case of uncertainty or ambiguity, be referred to for the purpose of construing the judgment (D'Arcy vs. Staples & Hanford Co., 161 Fed. 733; Pepper vs. Donnelly, 8 S. W. 441; Gentry vs. Pacific Live Stock Co., 77 Pac, 115; State vs. Bank of Commerce, 36 S. W. 719), particularly where the law requires the judge to state his reasons for the judgment (Avery vs. Police Jury, 35 Am. Dec. 202) as in case of an opinion by an appellate court (Hardy vs. Mayhew, 110 Pac. 113) or where the judgment itself refers to the opinion in such a way as to make it part of the record. (Legrant vs. Rixey's Adm. 3 S.E. 864). '(Freeman on Judgments, Vol. I, Sec. 76, p. 132)."[32]

that where there is ambiguity caused by an omission or mistake in the dispositive portion of a decision the court may clarify such ambiguity by an amendment even after the judgment had become final, and for this purpose it may resort to the pleadings filed by the parties, the court's findings of facts and conclusions of law as expressed in the body of the decision.[33]

It is this last-mentioned rule which respondent Court of Appeals applied when it ordered the amendment of the disputed portion of its judgment in CA-G.R. 9196-R, and We see no error in its action considering that all what respondent Court did was to cure an ambiguity and rectify a mistake it had inadvertently made when it referred to the tax declarations of real property marked as Annexes C, D, and E as Exhibits C, D, and E instead of Exhibits F, G, and H, respectively. As indicated earlier, it is obvious that the appellate Court was misguided by the markings "Annex C", "Annex D", "Annex E", appearing respectively on the face of Exhibits F, G, and H, and these letterings C, D, and E were the ones the Court mistakenly used when it described the exhibits in question in the dispositive portion of the decision.

The correction of a clerical error is an exception to the general rule that no amendment or correction may be made by the court in its judgment once the latter had become final.[34]

VI – One last argument raised by petitioner Corporation in L-22364 is that the question of whether or not there was an error, clerical or otherwise, in the dispositive portion of the decision of March 15, 1954, is definitely res judicata, because when Lentija, et al. moved for a reconsideration of the aforesaid decision the same was denied by the appellate Court, and when Lentija, et al. elevated the case to this Court on a petition for certiorari (L-8047) the petition was dismissed, thereby closing and terminating the litigation.

We will agree with petitioner Corporation that the dismissal of the petition for review in L-8047 rendered the decision in CA-G.R. 9196-R res judicata as to its right over 48 hectares of the 360 hectares claimed by it in its complaint as against Lentija, et al., but We cannot sustain its stand that the correction of the erroneous identification of the exhibits in question is a settled and closed matter. Lentija, et al. correctly answers the argument by calling attention to the fact that their motion for reconsideration in CA-G.R. 9196-R was limited to the issue of the sufficiency of evidence to support the appellate Court's findings and conclusion that the Corporation was entitled to 48 hectares, and that was the same issue in the petition for certiorari, L--8047, but that the question of the erroneous identification of exhibits in the dispositive paragraph of the decision was not raised.[35] Since this matter of clerical error was never brought out in the aforesaid motion for reconsideration

and petition for certiorari, it follows that it was not passed upon in judgment neither by the Court of Appeals nor by this Court, and consequently the principle of res judicata does not apply.

Nor can the Corporation invoke laches to defeat the remedy sought by Lentija, et al. to correct the aforementioned paragraph, because the record of the case shows that as soon as the existence of the error became evident, and that was when in May of 1956 the Corporation sought a writ of demolition in the court below, Lentija, et al. vigorously opposed its issuance over an area of 360 hectares claiming that all that the judgment in CA-G.R. 9196-R gave to the Corporation was only 48 hectares and that it was incumbent upon the Corporation to prove that they were within the 48 hectares awarded by the Court of Appeals before they could be ordered ejected from the portions occupied by them. Defeated in the court below, Lentija, et al. elevated the matter of execution and demolition to the Court of Appeals (CA-G.R. 29274), and subsequently filed with the latter their motion for correction of the dispositive portion of the decision in CA-G.R. 9196-R.

Conclusion – To summarize: We find and so hold that the decision in CA-G.R. 9196-R recognized the right of the Filipino Legion Corporation to only an area of 48 hectares out of the 360 hectares claimed by it in its complaint in CFI civil Case 151; that these 48 hectares are the parcels of land described in the tax declarations mentioned in the second paragraph of page four of the original decision in CA-G.R. 9196-R, to wit: Exhibits I, F, G, and H, the latter three being also identified respectively as "Annex C", "Annex D", and "Annex E"; that the reference to Exhibits F, G, and H as Exhibits C, D, and E in the first paragraph of the dispositive portion of the decision in question was a clerical error which can be corrected even after the decision had long become final; and lastly, that it is the corrected decision which is to be the subject of execution if equity and justice are to prevail in the case at bar.

WHEREFORE, pursuant to the foregoing findings: In L-22364 – the Resolution of respondent Court in CA-G.R. 9196-R dated November 8, 1963, is AFFIRMED, and in L-28330 – the Decision of respondent Court in CA-G.R. 29274-R, promulgated on September 26, 1967, is SET ASIDE, with costs in both cases against the Filipino Legion Corporation.

So ordered.

Makalintal, C.J., Castro, Teehankee, and Esguerra, JJ., concur.

Makasiar, J., on leave.

[1] p 1, Amended Record on Appeal CA-G.R. No 9196-R. p 13 rollo G.R. No. L-8047

[2] p. 34, rollo, G.R. No. L-22364

[3] p. 35, *ibid.*

[4] p. 28, *ibid.*

[5] p. 29, *ibid.*

[6] p. 30, *ibid.*

[7] p. 31, *ibid.*

[8] pp. 6-11, Amended Record on Appeal, CA-G.R. No. 9196-R rollo, G.R. No. L-8047.

[9] p. 2, Record on Appeal CA-G.R. No. 29274-R, p. 33, rollo, G.R. No. L-28330.

[10] pp. 11-46, *ibid.*

[11] p. 152, *ibid.*

[12] pp. 158-172, *ibid.*

[13] pp. 184-185, *ibid.*

[14] see pp. 23-27, rollo G.R. No. L-22364.

[15] see p. 5 of this Decision.

[16] pp. 56-69, G. R. No. L-22364.

16a pp. 8-9, *ibid.*

[17] See pp. 5-6, Decision, pp. 10-11, rollo G. R. No. L-8047.

[18] pp. 6-7 Respondents brief, G. R. No. L-22364.

[19] last sentence, 2nd paragraph, page 4, of Decision found in p. 9, rollo G.R. No. L-8047 & p. 4, this Decision.

[20] see p. 10 of this Decision.

[21] p. 4, *ibid.*

[22] p. 5, *ibid.*

[23] see quoted portions on pages 4 of Our Decision.

[24] 1 Freeman on judgments, p. 284, cited in p. 4, Resolution, rollo G. R. No. L-22364. p. 51.

[25] p. 9, Petitioner's brief, rollo G. R. No. L-22364

[26] see p. 4, Decision p. 9, rollo G. R. No. L-8047

[27] see p. 4, this Decision

[28] *Archbishop of Manila vs. Director of Lands, et al.*, 35 Phil. 339, 351; *Philippine Sugar Institute vs. Court of Industrial Relations, et al.*, G. R. No. L-18930, February 28, 1967, 19 SCRA 471, 480, citing *Neri Edwards, et al. vs. Arce, et al.*, 52 O.G. 2537; *Gov't of the Phil. vs. Jose Ramon Y Vasquez, et al.*, 73 Phil. 669; *Contreras, et al. vs. Felix, et al.*, 78 Phil. 570; *Jabon, et al. vs. Alo, et al.*, 91 Phil. 750; *Robles, et al. vs. Timario, et al.*, G. R. No. G.R. No. L-13911, April 28, 1960; *Segarra vs. Maranilla*, G.R. No. L-14428, July 26, 1960.

[29] *Contreras vs. Felix*, 78 Phil. 570.

[30] *Siari Valley Estates vs. Lucasan*, 102 Phil. 390

[31] *Morelos vs. Go Chin Ling, et al.*, 105 Phil. 814, 817

[32] *ibid*, p. 818, underline supplied

[33] *Locsin vs. Paredes, et al.*, 63 Phil. 87, 91, citing 34 C.J. 235, 236. See also *Republic, of the Philippines, Tolentino, Sr., et at. vs. Hon. de los Angeles, et al.*, G.R. No. L-20112, October 4, 1971, 41 SCRA 422, which become final and executory on May 28, 1973.

[34] *Moran, Rules of Court*, Vol. 2, p. 205, 1970 Ed.

[35] Respondents Brief, pp. 12-13, G.R. No. L-22347.

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