

**APOLINARIO OKOL AND EVARISTO ALCANTARA,
PLAINTIFFS-APPELLANTS, VS. TAYUG RURAL BANK, INC.,
VALERIANO MAGNAAN AND ENRIQUE CO SUE,
DEFENDANTS-APPELLEES.**

G.R. No. L-28115. October 30, 1970

Ponente: FERNANDO, J.

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FERNANDO, J.:

In the brief for plaintiffs Apolinario Okol and Evaristo Alcantara, now appellants, from an order of dismissal by the lower court, there is an admission that what motivated their complaint was their desire to prevent the execution of a judgment final and executory. They did absolutely nothing about the plight into which they had fallen when there was time enough to do so, but waited until the stage of execution was reached with a presentation of this complaint that was dismissed, the only justification for refusing to be bound by the decision being an asserted assignment of rights to a third party, the relationship of whom to the creditor, Tayug Rural Bank, being alleged but not quite supported by the very annex attached to such complaint. They ought not to have been surprised when a motion to dismiss based on a bar by prior judgment was filed. They ought not to have been surprised either when such motion to dismiss was granted by the lower court. Now they would want us to reverse such order of dismissal. They ought to have known better. The law is against them. We have no choice but to affirm.

The complaint, which was subsequently dismissed, was filed by appellants on January 23, 1966. In all candor, they acknowledged that such case was instituted "principally for the purpose of securing a judgment from the lower court releasing them from their obligation on the promissory notes, subject-matter of the decision in Civil Case No.T-1070." [1] They would seek exculpation from a liability already adjudged by including in such complaint a deed of assignment allegedly executed by them in favor of defendant Tayug Rural Bank, now appellee, not directly but through a certain Enrique Co Sue. For appellants, this deed of assignment extinguished by novation their obligation, subject matter of the aforesaid civil case, the judgment in which had already reached the stage of finality and was therefore executory. Nowhere in such deed of assignment attached to their complaint is there any mention, express or implied, that such CoSue was acting for and in behalf of appellee Bank. [2]

It must be noted that appellants received copy of the decision in Civil Case No. T-1070 on February 17, 1966. The deed of assignment was dated January 4, 1966. Surprisingly, they did nothing to seek relief from such judgment or to appeal. They just folded their hands. The decision became final and executory, and an order for a writ of execution came from the lower court on April 21, 1966. [3] Prior to defendant deputy provincial sheriff, Valeriano Magnaan, now appellee, proceeding with the scheduled sale at public auction of the personal properties of appellant, Apolinario R. Okol, on October 18, 1966, this case, as above noted, was filed with the Court of First Instance of Pangasinan, Branch V, on September 23, 1966 against the appellees. Again, it was reiterated in their brief that appellants seek "a decision releasing the appellants from their obligations sought to be enforced in Civil Case No. T-1070 and to temporarily restrain the appellee, Valeriano Magnaan, deputy sheriff of Pangasinan, from

proceeding with the scheduled execution sale, until the termination of the case." [4]

There was a motion to dismiss based, among others, on bar by prior judgment, favorably acted on, as mentioned by the lower court, in its order of April 24, 1967. A reconsideration was sought, but it was unsuccessful. Hence, this appeal on a question of law. We repeat that no error of law was committed by the lower court in its challenged order of dismissal.

Considering the controlling facts as set forth in the very brief for plaintiffs-appellants, the lower court had no other choice but to grant the motion to dismiss filed by appellee Tayug Rural Bank. It could not act otherwise, as to allow the complaint to go on would be to deprive of force and effectivity a judgment that had become final and executory. Appellants ought to have been aware that if such a stage were reached, it was due to their fault and to their fault solely. They could have invoked the appropriate legal remedies before it was impressed with finality. They failed to do so. Certainly, it would be a disservice to the legal order if they could still seek to restrain the enforcement thereof. What is worse, is that the very complaint which was dismissed on its face failed to show convincingly that the third party, whose actuations they would impute to the appellee Bank, was in fact duly authorized to act on its behalf. Nothing could be plainer, therefore, than that the lower court did precisely what in law it had to do.

The principle on which such a doctrine is based is succinctly summarized in the authoritative work of former Chief Justice Moran on the Rules of Court. Thus: "It has been held that it is a general rule common to all civilized system of jurisprudence, that the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or a 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 system. Public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law. The very object for which courts were constituted was to put an end to controversies." [5] According to this work, this is the reason for the rule: "The fundamental principle upon which the doctrine of res judicata rests is that parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given the judgment of the court, so long as it remains unreversed should be conclusive upon the parties and those in privity with them in law or estate." [6]

WHEREFORE, the order of dismissal of April 24, 1966 is affirmed. Without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehankee, and Barredo, JJ., concur.
Villamor, J., no part.

Makasiar, J., on official leave.

[1] Statement of the Case, Brief for the Plaintiffs-Appellants, p. 2.

[2] Annex C, Record on Appeal, p. 12.

[3] Ibid, pp. 20-21.

[4] Statement of Facts, Brief for the Plaintiffs-Appellants, p. 5.

[5] 2 Moran, Comments on the Rules of Court, 360-361 (1970).

[6] Ibid p. 362.

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