

**CRISPINA R. GIANAN, (REPRESENTED BY ROMEO GIANAN — HEIR),
PETITIONER, VS. HON. JORGE S. IMPERIAL, AS JUDGE OF THE
CFI-CAMARINES SUR, BRANCH II; ERNESTO OLAÑO, MARCELINO
OLAÑO, S...**

G.R. No. L-37963. February 28, 1974

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This Petition seeks a review of an order issued by respondent Hon. Jorge S. Imperial, Judge of the Court of First Instance of Camarines Sur, Branch II, dismissing Civil Case No. 7299 of said court entitled "Crispina R. Gianan vs. Ernesto Olaño; et al.", for lack of jurisdiction.[1]

Civil Case No. 7299 is an action filed on May 4, 1972, to annul a judgment rendered on January 29, 1957, in Special Proceeding No. 658 of the Court of First Instance of Camarines Sur, Branch III, which granted the petition for adoption of Ernesto Olaño and other minors, surnamed Olaño, by spouses Leoncio S. Rubi and Segundina O. Rubi. A pre-trial was held by respondent Judge on December 21, 1972,[2] after which the case was set for hearing on the merits on May 11, 1973, and plaintiff therein rested her case.[3] Subsequently, Crispina Rubi Gianan died and she was substituted by her husband and children.[4] On August 1, 1973, when the case was called for continuation of trial, the question of jurisdiction of the Court over the complaint was brought out,[5] and the plaintiff and defendants submitted their respective memorandum on the issue of whether or not Branch II had jurisdiction to annul a final judgment rendered by Branch III of the same Court.[6] After hearing both parties on the matter, respondent Court issued its Order of September 25, 1973,[7] dismissing the complaint for lack of jurisdiction, reasoning out in the following manner:

"It has been held in several decisions of the Honorable Supreme Court that the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to the very same branch which rendered the judgment and that any other branch, even if it be in the same judicial district, that attempts to do so, either exceeds its jurisdiction or acts with grave abuse of discretion amounting to lack of jurisdiction (Mas vs. Dumara-og, L-16252 Sept. 29, 1964, 12 SCRA 34; Sterling Investment Corporation, et al., vs. Ruiz, L-30694, October 31, 1969, 30 SCRA 318; De la Cruz vs. De la Cruz 12 SCRA 47).

"Considering that what is sought for in the above-entitled case is the revocation of the adoption based on the invalidity and non effectiveness of the decree of adoption, and not because of circumstances subsequently supervening which under the law rendered the continuation of the adopted relationship unjustified and impractical, this Court (Branch II of the Court of First Instance of Camarines Sur), has no jurisdiction to annul the judgment sought to be annulled in this case which is a judgment rendered by Branch III of the Court of First Instance of Camarines Sur." (p. 31, rollo)

Their motion for reconsideration of the above-quoted Order having been denied[8] and believing that the same is contrary to existing law and jurisprudence, the heirs of Crispina Rubi Gianan represented by Romeo Gianan have come to this Court for relief, and now pray that said Order of dismissal be set aside. We required respondents to

file their comment (not a motion to dismiss); however, in their pleading entitled "Comment" respondents chose not to discuss the Merits of the Petition but moved to dismiss the same on technical grounds that the documents attached to the Petition were not certified true copies thereof. The record of the case shows, however, that petitioner submitted the duplicate signed copies of the Order of dismissal dated September 25, 1973, and of the Order denying petitioner's Motion for Reconsideration dated November 12, 1973.[9]

Now, for the legal question raised in this Petition. Is respondent Court, that is, Branch II, Court of First Instance of Camarines Sur, without jurisdiction to try and decide a complaint for annulment of a final judgment rendered by Branch III of the same Court?

True it is that in *Mas vs. Dumara-og*, L-16252, September 29, 1964,[10] it was held by this Court

"Pursuant to the policy of judicial stability, the judgment of a court of competent jurisdiction may not be interfered with by any court of concurrent jurisdiction. For the same reason, the power to open, modify or vacate a judgment is not only possessed by, but is restricted to the court in which the judgment was rendered." [11],

and that in *Sterling Investment Corporation vs. Hon. V. M. Ruiz, et al.*, L-30694, October 31, 1969,[12] the foregoing ruling was amplified and it was there held that the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to the very same branch which rendered the judgment and that any other branch even if it be in the same judicial district that attempts to do so either exceeds its jurisdiction or acts with grave abuse of discretion amounting to lack of jurisdiction. However, the foregoing pronouncements were re-examined in *Dulap vs. Court of Appeals, et al.*, L-28306, December 18, 1971,[13] the facts of which are similar to the case now before Us.

In *Dulap* the question presented was whether or not Branch III of the Court of First Instance of Manila had the power or authority to annul a judgment rendered by Branch XVII of the same court which had become final and executory. The question was answered in the negative by the Court of Appeals, the latter relying on the decision in *Mas vs. Dumara-og*; upon appeal, however, the decision of the appellate court was reversed and this Court, in the words of then Mr. Justice Julio Villamor, among other things said:

"The cases of *Dumara-og, J.M. Tuason, & Co., Inc.* and *Sterling Investment Corporation, et al.*, supra, would give the impression that when a suit to annul the judgment of a court of first instance or of a branch thereof is filed with another court of first instance or another branch of the same court, the question of jurisdiction inevitably comes up. This question was squarely ruled upon by this Court in the decision penned by Mr. Justice (now Chief Justice) Roberto Concepcion in *Vda. de Ursua vs. Pelayo*, G.R. No. L-13285, April 18, 1960 (107 Phil., 622), some four (4) years before the *Dumara-og* decision, to wit:

'It would seem from this order that the lower court considered itself devoid of authority or jurisdiction to annul an order issued or decision rendered by a judge of another branch of the same court. This view is untenable, for the jurisdiction of all courts in the Philippines, insofar as the authority thereof depends upon the nature of the litigation, is defined in the Revised Judiciary Act, pursuant to which courts of first instance shall have exclusive original jurisdiction over civil cases the subject matter of which are not capable of pecuniary estimation, and an action for the annulment of a judgment and an order of a court of justice belongs to this category. The case cited in the order appealed from (*Montesa vs. Manila Cordage Co.*, supra) is not in point, for the issue involved therein was whether the Court of First Instance of Manila, may indirectly — not in an action for the specific purposes of annulling a judgment — and by interlocutory order, or a writ of preliminary injunction, set aside an attachment levied in pursuance of an order issued in another case pending before another branch of the same court. Such is not the nature of the proceeding before us.'

To hold that a court or a branch thereof has no authority or jurisdiction to annul a judgment simply because that judgment was rendered by another court of concurrent jurisdiction or by another branch, would, therefore,

practically amount to judicial legislation, affecting, as it will, the provisions of the Revised Judiciary Act. In an action to annul a final judgment or order, the choice of which court the action should be filed with is not left to the parties; by legal mandate the action should be filed with the court of first instance. The question is in what place (with what particular court of first instance) the action should be commenced and tried. The question, as discussed above, is actually one of venue. x x x.

"x x x With particular reference to the different branches of a court of first instance, the correct view is that expressed in *Bacalso, et al. vs. Ramolete, etc., et al.*, L-22488, October 26, 1967 (21 SCRA 519), to wit:

'x x x The various branches of the Court of First Instance of Cebu under the Fourteenth Judicial District, are a coordinate and co-equal courts, and the totality of which is only one Court of First Instance. x x x '

"Our conclusion must therefore be that a court of first instance or a branch thereof has the authority and jurisdiction to take cognizance of, and to act in, a suit to annul a final and executory judgment or order rendered by another court of first instance or by another branch of the same court. The policy of judicial stability, which underlies the doctrine laid down in the cases of *Dumara-og, J. M. Tuason & Co., Inc. and Sterling Investment Corporation, et al.*, supra, should be held subordinate to an orderly administration of justice based on the existing rules of procedure and the law. x x x." (pp. 543-545, *Supra*; italics supplied.)

Thus, in clear and unmistakable terms this Court re-examined the cases of *Dumara-og* and *Sterling Investment*, and ruled in *Dulap* that a court of first instance or a branch thereof has the authority and jurisdiction to try and decide an action for annulment of a final and executory judgment or order rendered by another court of first instance or by another branch of the same court.

While we are reiterating the ruling in the *Dulap* case for this particular situation now before Us, we emphasize the fact, however, that there is herein no conflict with the decision of the Court in *Macias vs. Uy Kim, et al.*, L-31174, May 30, 1972, 45 SCRA 251, because in the latter what petitioner-appellant did was to file an action, among other things, for the annulment of a deed of sale of certain real properties which sale was authorized in Special Proceeding No. 63866 of the Court of First Instance of Manila involving the estate of Rosina Marguerite Wolfson assigned to and pending with Branch VIII of said Court, and this Court in affirming an Order of Branch X of the Court of First Instance of Manila dismissing said action to annul the sale, reivindicacion and damages, held, in the words of Mr. Justice Makasiar, and We quote:

"Under Section 1 of Rule 73, Rules of Court, 'the court first taking cognizance of the settlement of the estates of the deceased, shall exercise jurisdiction to the exclusion of all other courts.' Pursuant to this provision, therefore all questions concerning the settlement of the estate of the deceased Rosina Marguerite Wolfson should be filed before Branch VIII of the Manila Court of First Instance, then presided over by former Judge, now Justice of the Court of Appeals, Manuel Barcelona, where Special Proceedings No. 63866 for the settlement of the testate estate of the deceased Rosina Marguerite Wolfson was filed and is still pending.

"This Court stated the rationale of said Section 1 of Rule 73, thus:

'x x x The reason for this provision of the law is obvious. The settlement of the estate of a deceased person in court constitutes but one proceeding. For the successful administration of that estate it is necessary that there should be but one responsible entity, one court, which should have exclusive control of every part of such administration. To intrust it to two or more courts, each independent of the other, would result in confusion and delay.

xxx xxx xxx

'The provision of section 602, giving one court exclusive jurisdiction of the settlement of the estate of a deceased person, was not inserted in the law for the benefit of the parties litigant, but in the public interest for the better administration of justice. For that reason the parties have no control over it.'

'On the other hand, and for such effects as may be proper, it should be stated herein that any challenge to the validity of a will, any objection to the authentication thereof, and every demand or claim which any heir, legatee, or party in interest in a testate or intestate succession may make, must be acted upon and decided within the same special proceedings, not in a separate action, and the same judge having jurisdiction in the administration of the estate shall take cognizance of the question raised, inasmuch as when the day comes he will be called upon to make distribution and adjudication of the property to the interested parties, x x x.' x x x.

"It is not disputed that the orders sought to be annulled and set aside by herein petitioner-appellant in his complaint against private respondents which was assigned to Branch X of the Manila Court of First Instance presided over by Judge Jose L. Moya, were issued by Judge Barcelona presiding over Branch VIII of the same court. x x x.

"x x x And, as heretofore stated, under the rules and controlling jurisprudence, the Presiding Judge of Branch X of the Manila Court of First Instance cannot legally interfere with, nor pass upon the validity of said orders of the Presiding Judge of Branch VIII, which court, as the probate court, has exclusive jurisdiction over the estate of the decedent, including the validity of the will, the declaration of heirs, the disposition of the estate for the payment of its liabilities, and the distribution among the heirs of the residue thereof." (pp. 258, 259, 262)

Coming back to the present case We believe and so hold that while respondent Court has the jurisdiction vested upon it by law over the subject matter of petitioner's complaint (Civil Case No. 7299) for annulment of the adoption proceedings in Special Proceeding No. 658, it is the better policy as a matter of comity or courteous interaction between the different branches of the Court of First Instance of Camarines Sur, for the annulment case to be tried by Branch III of the Court which heard and decided the adoption proceeding especially if said Branch is presided by the Judge who rendered the judgment sought to be annulled.

WHEREFORE, the respective Orders of respondent Judge dismissing petitioner's complaint and denying petitioner's motion for reconsideration are set aside, and pursuant to the guideline expressed above, civil case 7299 is ordered transferred to Branch III of the Court of First Instance of Camarines Sur for continuation of trial if the Judge who decided Special Proceeding No. 658 still presides said Court, otherwise, respondent Court shall continue to hear the case and decide the same on the basis of the evidence submitted by the parties. Without pronouncement as to costs.

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

[1] This Petition is treated as a special civil action and respondents' comment as an answer.

[2] pp. 12-14, *ibid*

[3] p. 15, *ibid*

[4] pp. 16-18, *ibid*

[5] pp. 19-20, *ibid*

[6] pp. 21-29, *ibid*

[7] pp. 30-32, *ibid*

[8] p. 9, *ibid*

[9] pp. 41-44, *ibid*

[10] 12 SCRA 34

[11] The issue was: had the Court of First Instance of Antique authority to entertain an action to annul a judgment of the Court of First Instance of Iloilo, and what Court had jurisdiction over the matter?

[12] 30 SCRA 318**[13] 42 SCRA 537**

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