

**CONRADO HABAÑA AND ROSARIO R. HABAÑA, PETITIONERS, VS.
HON. CIPRIANO VAMENTA, JR., JUDGE OF THE COURT OF FIRST
INSTANCE OF NEGROS ORIENTAL, JOSE T. IMBO AND CONCEPCION
TEVES, C...**

G.R. Nos. L-27091-92. June 30, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Original action for the issuance of a writ of certiorari, pro-hibition and/or mandamus for annulment of the questioned orders of respondent court taking cognizance of a new action filed by respondent Jose T. Imbo and his co-plaintiffs that would question again the validity of the sale made to petitioners on June 28, 1955 of two lots, as previously adjudicated by this Court in a 1964 decision and denying the issuance of a writ of execution for the enforcement of said decision.

This case is a sequel of Habaña vs. Imbo,[1] decided by the Court on March 31, 1964, against respondents and plaintiffs in the new case below, and upholding the sale made on June 28, 1955 in favor of therein petitioners, the spouses Conrado Habaña and Rosario Habaña, (likewise petitioners at bar) by Concepcion Teves, (a daughter and principal heir of the estates of the deceased spouses Maria Pastor de Teves and Pedro Teves) of two large coconut plantations identified as Lots Nos. 6272 and 1932 of the cadastral survey of Dumaguete, Negros Oriental, to whom the said lots had been distributed in the partition by will executed by the deceased testator Pedro Teves.

The principal parties involved, aside from petitioners, are identified in the opening portion of the Court's decision penned by Justice Paredes: "(P)edro Teves and Maria Pastor were husband and wife, residing in Dumaguete City, Negros Oriental. Maria Pastor died on February 22, 1937, and was survived by her husband and three children, named Concepcion Teves, of age; Jose Teves (now deceased), who left no legitimate heirs (except his father and a natural child); and Asuncion Teves, also deceased, who was survived by her husband Luciano Imbo and her children named Jesusa, 24; Jose, 23; Maria, 22; Remedios, 21; Corazon, 17; Mariano, 14; and Luciano, Jr., 13.

"On December 12, 1949, Pedro Teves applied for letters of Administration in the CFI of Negros Oriental, Sp. Proc. No. 675, and was appointed administrator of the estate of his deceased wife Maria Pastor on May 9, 1951. On June 2, 1951, Concepcion Teves was appointed as co-administratrix of the estate.

"On December 15, 1954, Pedro Teves died, leaving a will and testament, which was presented to the same Court for probate on January 8, 1955, in Sp. Proc. No. 1010 of said Court. The court on February 25, 1955, allowed the said will and admitted the same to probate. On January 26, 1955, Dr. Jose T. Imbo was appointed as co-administrator of the estate in Sp. Proceeding No. 675, in place of the deceased Pedro Teves and Dr. Imbo, qualified as such administrator on January 28, 1955. Mariano Teves, named executor of the will of Pedro Teves was, on February 24, 1955, appointed by the Court as such, with a will annexed in Sp. Proc. No. 1010. The properties of Maria Pastor inventoried under Sp. Proc. No. 675, and the properties of Pedro Teves inventoried under Sp. Proc. No. 1010, are the same conjugal properties of the deceased spouses.

As narrated in the said decision, the testator Pedro Teves par-titioned and divided in his will most of the real properties of the estates among the heirs, adjudicating the two lots in question to Concep-cion Teves as her share. "With respect to this adjudication," the Court's decision expressly found that 'Dr. (Jose T.) Imbo and all the heirs, on October 20, 1956, made a Joint Manifestation in court of the following tenor:-

'5. That in view of the fact that the only properties of the intestate Maria Pastor de Teves now remaining and of the testate Pedro Teves are their conjugal and undivided properties and in view of the further fact that the le al heirs of the said intestate are in conformity wit the dis-position o the will of the said testate, which also covers a said conjugal properties, thereby including the intes-tate properties, it would be to the convenience of all parties if the aforesaid two proceedings x x x be considered either jointly or simultaneously.'"[2]

Concepcion Teves had on June 28, 1955 previously sold for P10,000.00 the said two lots, in her capacity as heir and devisee thereof, in favor of petitioners. When she filed on August 10, 1956 a motion in the joint estate proceedings to sell a part of the estate for the purpose of finally liquidating and settling the two es-tates, the executor and other heirs filed an opposition alleging that "a disposal of any of the properties would be prejudicial to the interest of the heir to whom said property have (sic) been assigned" and that "(Concepcion) has lost all her rights and interest in the estate of the deceased due to the fact that she has already sold all her shares and participation (therein). " The probate court nevertheless ordered on October 4, 1956 the sale of some properties, preferably those mentioned in paragraph XVIII of the testator's will, referring to "some parcels of land which are not mentioned in this will, but it is my wish that these lands be divided in equal shares by nine (9) children - these of my children by the first and second wife."

Thereafter, as recounted in our said decision, from Novem-ber 8, 1956 and thereafter, respondents Jose T. Imbo and Concep-cion Teves, administrator and co-administratrix of the intestate estate of the deceased Maria Pastor de Teves, and respondent Ma-riano Teves, executor of the testate estate of the deceased Pedro Teves, embarked on a series of maneuvers to disregard and nullify Concepcion's sale of the two lots to petitioners. First came an aborted sale on December 21, 1956 of the same two lots to the ad-ministrator Jose T. Imbo, with prior authority and immediate ap-proval of the probate court, which was opposed at the time by Con-cepcion "on the ground that such sale was made in bad faith, because the purchaser knew that said lots were adjudicated by will to Con-cepcion Teves as her share, with the conformity of all the heirs, and the same were already sold to Dr. and Mrs. Habaña, for valid and sufficient consideration. " After the probate court had overruled the opposition of Concepcion and petitioners, the sale to respondent-administrator Jose T. Imbo was "rescinded" by the probate court on November 7, 1957 upon the latter's own motion, thus discontinuing the appeal that had been timely appealed by petitioners. But on March 19, 1958, barely four months after said "rescission", the executor filed another motion asking for the sale again of the same two lots for the same price of P10,000. 00, to be joined later on Octo-ber 21, 1958, by respondent Concepcion Teves, the very same heir and devisee who had already sold the same to petitioners. As the probate court on January 7, 1959 overruled anew the petitioners' opposition and granted anew the motion to sell the same lots again, notwithstanding their having been already sold to petitioners, the matter was elevated to this Court upon petitioners' appeal.

In this Court's decision of March 31, 1964, we upheld the valid-ity of the sale by Concepcion Teves of the two lots in favor of peti-tioners:

"The distribution made in the Will of Pedro Teves, x x x is in accordance with article 1080 of the Civil Code, which provides that 'Should a person make a par-tition of his estate by an act inter vivos, or by will, such partition shall be respected, insofar as it does not prejudice the legitime of the compulsory heirs. ' There was no showing that said distribution ever prejudiced the legitime of the compulsory heirs herein, and as a matter of fact all the heirs gave their express conformity to the said distribution (see joint manifestation, supra). There was not even a vague suggestion of unfairness with respect to the disposition of the legitimes. Concepcion

Teves by operation of law became the absolute owner said lots because 'A partition legally made confers upon each heir the exclusive ownership of the property adjudicated to him' (Article 1091, New Civil Code), from the death of her ancestors, subject to rights and obligations of the latter, and, she can not be deprived of her rights thereto except by the methods provided for by law x x x Concepcion Teves could as she did sell the lots in question as a part of her share of the estate of the deceased, even before the approval of the proposed partition of the properties especially when, as in the present case, the sale has been expressly recognized by herself and her co-heirs; x x x The executor of the will and all other heirs of the late Pedro Teves should be precluded from questioning: the validity of the sale of the lots in 'question in favor of the appellants, Dr. and Mrs. Habaña; rather, they should comply with the lawful provisions of the Will of the testator, for it has been well provided that 'should a person make a partition of his estate by an act inter vivos or by will (as in this case), such partition shall be respected, in so far as it does not prejudice the legitime of the compulsory heirs' (Art. 1080, Civ. Code)."[3]

and rendered judgment as follows:-

"WHEREFORE, judgment is rendered reversing the Order of the Court, dated January 7, 1959, authorizing the executor to enter into a contract to sell anew lots 1932 and 6272, and remanding the case to the Court of origin for further proceedings, with instructions to sell other undisposed or unencumbered properties of the estate, or the undisposed or unencumbered properties of any of the heirs, should there be any obligation of the estates still unpaid, in conformity with law as in such cases provided, reserving the right, if any, upon an authorized party to question the validity of the sale made by Concepcion Teves to appellants herein, in the proper Court. Costs against the appellees."[4]

After the said decision became final and executory on May 4, 1964, petitioners, in implementation thereof, filed with respondent court in the estate proceedings their motion for execution of August 19, 1964 for respondent court to direct respondents to deliver possession of the two lots involved (the use and enjoyment of which had been denied them all these years) and to issue other appropriate orders necessary for the transfer of the title thereof in their favor. Opposition thereto was filed on September 10, 1964 by respondent Jose T. Imbo and his six brothers and sisters (all grandchildren of the deceased Teves spouses, by their pre-deceased daughter, Asuncion Teves, Supra), invoking the reservation clause in this Court's decision of 'any authorized party to question the validity of the sale made by Concepcion Teves to appellants) herein (petitioners), in the proper court," and questioning anew the validity of said sale on the ground that the testator Pedro Teves could not dispose by will of the said two lots entirely in favor of Concepcion as the same pertained to his conjugal partnership and estate with the deceased Maria Pastor de Teves and that they had the right to be subrogated to the rights of petitioners as strangers purchasers under Article 1088 of the Civil Code. No action on petitioners' motion was taken by the probate court.

Meanwhile, the same respondent Jose T. Imbo and his six brothers and sisters, joined by Ariston Teves and others, alleging themselves to be "legitimated children of the said Pedro Teves and of his widow, plaintiff Maria Dizon de Teves" as well as by said Maria Dizon de Teves, filed under date of April 20, 1965 an entirely new and separate complaint against petitioners and Concepcion Teves as defendants, likewise questioning anew the validity of the sale of the same properties by Concepcion Teves to petitioners, invoking the same reservation clause in this Court's decision, alleging that Concepcion had surreptitiously and without notice to them executed the sale of June 28, 1955 in favor of petitioners, and praying the court to declare the sale null and void and to grant them the preferential right to purchase the properties for the same consideration of P10,000.00. This action was taken cognizance of by the same respondent court.[5] Petitioners' motion to dismiss the complaint for being barred by res judicata and the conclusiveness of this Court's judgment of March 31, 1964 and for lack of cause of action was denied by respondent court on June 8, 1965 as concerning "matters which could only be properly threshed out and resolved after the case shall have been tried on the merits." [6] Petitioners there upon filed their

answer with counterclaim and cross-claim against Concepcion Teves for actual and exemplary damages and attorney's fees.

As more than a year and a half had already intervened without their motion for execution in the estate proceedings having been re-solved by respondent court, petitioners moved anew on April 13, 1966 for the granting thereof, but respondent court, two months later, issued its order of June 28, 1966, denying execution, "considering that the court is still conducting further proceedings as directed by the Supreme Court per its decision in the appealed case and in view of the pendency of Civil Case No. 4390 before this court involving the two lots in question" and that it had no legal justification to order execution "until after said proceedings shall have been duly terminated." [7] Petitioners' reasoned motion for reconsideration was peremptorily denied by respondent court in its order of August 1, 1966. [8]

Hence, the present plea of petitioners, which we find to be meritorious.

1. Respondent court acted with grave abuse of discretion and in excess of its jurisdiction in taking cognizance of the new and separate complaint filed by respondent Jose T. Imbo and the six other grandchildren of the decedent spouses and their other co-plaintiffs seeking anew to nullify the sale of the two lots in question by Concepcion Teves to petitioners notwithstanding that a re-litigation of the same question is already barred by this Court's judgment of March 31, 1964. There could be no such further proceedings. This Court, in upholding the validity of the sale of the said lots to petitioners, remanded the case to respondent court, with express instructions "to sell other undisposed or unencumbered properties of any of the heirs, should there be any obligation of the estate still unpaid. "

We then found that the only unpaid obligation of the estate, per information of the executor himself was an insignificant amount of P3, 186.40, and that Concepcion Teves, "according to un rebutted disclosure in the records had paid her share. " In the remote event that the remaining considerable properties of the estate were not sufficient to discharge its obligations, (and we noted that this was not the case), we further indicated that a notation of a lien in favor of the estate on the certificates of title of the two lots to guarantee that its obligations would be met, to which notation petitioners had expressed their conformity, would be a feasible procedure to "expedite the delivery of said lots to (petitioners)."

This Court then unequivocally ruled that "(T)he executor of the will and all other heirs of the late Pedro Teves should be precluded from questioning the validity of the sale of the lots in question in favor of (petitioners); rather, they should comply with the lawful provisions of the will of the testator x x x. " The questions raised by respondent Imbo and his co-plaintiffs in their new action, as to the alleged surreptitious sale by Concepcion Teves of the properties and their alleged legal right to be subrogated to the rights of petitioners as vendees are matters that are no longer triable, since they are foreclosed by this Court's prior judgment in the 1964 case. The complaint in said Case No. 4390 therefore clearly stated no cause of action, besides being barred by res judicata, and since respondent court patently has no jurisdiction to even attempt to take cognizance of the action to nullify or modify a final judgment of this Court, certiorari and prohibition lie to annul and set aside the proceedings and to direct respondent court to desist from further proceedings in the matter, as reiterated recently by the Court in *Sterling Investment Corporation vs. Ruiz*. [9]

2. Respondent court also neglected the performance of its ministerial function of issuing the writ of execution prayed for by petitioners in the estate proceedings to which they were entitled as a matter of right, by virtue of this Court's final judgment. Its stated grounds in its long-delayed order for denying the writ of execution, viz, that it is still conducting proceedings as directed by the Supreme Court per its decision in the appealed case" and that the new civil case (No. 4390) involving the two lots in question pending before it should first be duly terminated, are

legally untenable for the reasons already stated. Clearly, respondent court failed to take due note that the 'further proceedings in the estate proceedings, as remanded by this Court,/ were delimited by the express instructions given in the judgment to sell other undisposed or unencumbered properties of any of the heirs to meet the unpaid obligations, if any, of the estate and that it could not deal any longer with the two lots validly sold to petitioners or entertain any further claim thereto of the executor or any of the heirs questioning the validity of said sale, except to annotate, if necessary, a lien in favor of the estate on the titles thereof, to guarantee the discharge of any obligations of the estate in the event of insufficiency of the remaining properties, as above stated.

3. The reservation clause in the dispositive part of the judgment "reserving the right, if any, upon any authorized party, to question the validity of the sale made by Concepcion Teves to (petitioners), in the proper Court" could in no sense be invoked by respondents for justifying respondent court's denial of the writ of execution or the institution anew by plaintiffs-heirs of their new and separate civil action questioning the same sale. For by express terms of the judgment, the executor and all other heirs of the estate were precluded from questioning the validity of the sale in question. This should readily have been perceived by respondents for the Court in its said judgment never referred to the executor or administrator or their other co-heirs as parties to the case, much less as an "authorized party" but always, referred to them therein either in their official capacity as executor or administrator or by name or collectively as heirs, and expressly precluded them collectively as heirs from questioning the validity of the sale. The reservation clause was obviously intended as a saving clause to protect third parties (non-heirs) who may have had any title or rights to the two lots prior or superior to those of the decedent spouses whose estates were being settled or of Concepcion Teves, (to whom the said lots had been adjudicated in the will of the testator Pedro Teves) whose sale thereof in favor of petitioners was declared valid as against the adverse claims of all other heirs. (This was merely a cautionary reservation as to third parties, since it was not clear in the record, although the two lots' numbers apparently correspond to the cadastral survey of Duma-guete, that the lots were duly registered in the name of either or both of the decedent spouses).

4. The new action filed by respondent Imbo and his co plaintiffs is clearly barred by res judicata by virtue of this Court's final verdict in the 1964 case. The "new" questions raised by said respondents-plaintiffs now, per their answer to the petition and their memorandum, pertain to the allegation that one of them, Luciano T. Imbo, was at the time of the "surreptitious sale" of the lots by Concepcion Teves to petitioners, "was still a minor of less than eighteen (18) years of age, he having been born on December 1, 1938," as a basis for their alleged right of subrogation to petitioners' rights; and to the contention, that assuming that they are barred as heirs from questioning the sale, "would they not be considered as the creditors, since out of the sale in favor of Jose T. Imbo, most of the obligations of the estate were paid,"[10] as to be considered third parties authorized to question the sale under this Court's reservation clause.

These bare allegations have no factual basis, because they are contrary to the factual findings in this Court's judgment and as to Luciano Imbo's alleged minority, assuming that he was born on December 1, 1938 as alleged, then he was already of age at the time that respondent court ordered in 1959 for a second time the sale anew of the lots and during the pendency of petitioners' appeal therefrom to this Court - so it cannot be truthfully alleged that he had no knowledge or notice of the "surreptitious sale" of the properties to petitioners. Aside from these allegations being belatedly raised now only in this case, for they were not pleaded at all in the complaint below in Case No. 4390, even if they were taken as true, they would have no legal merit or significance, for as repeatedly stated, since the lots in question were partitioned by will to Concepcion Teves, she became the absolute owner thereof by operation of law from the death of her parents, free to sell the same to petitioners, more so, when the sale was expressly recognized by herself and her co-heirs, as held by this Court in the 1964 judgment; and therefore, there could be no legal right of subrogation to petitioners' rights as vendees under Article 1088 of the Civil Code, as invoked by them.

All these allegations and contentions of respondents and the co-plaintiffs are now barred by res judicata which has set the contro-versy at rest. A party cannot be permitted to urge one ground at a time and indulge in "piece-meal and endless litigation", and "by varying the form of action or adopting a different method of present-ing his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties and their privies." [11] As reaffirmed by the Court in the recent case of Zambales Academy Inc. vs. Villanueva, [12] respondents "should finally realize that public policy and sound practice enshrine the fundamental principle of res judicata that parties ought not to be permitted to litigate the same issue more than once, as the very object for which courts were constituted was to put an end to controversies. Thus, the provisions of Rule 39, section 49 (b) that the effect of a judgment or final order ren-dered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, is 'with respect to the mat-ter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the com-mencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity. The corollary principle of res judicata that courts of the present day are not concerned so much with the form of actions as with their substance' and that 'despite a difference in the form of the action nevertheless the doctrine of res judicata would be applied where it appeared that the parties in the two suits were in truth 'litigating for the same thing,' has just as long been enunciated by this Court." [13]

5. We noted that petitioners committed a procedural error in not having formally impleaded in this action as respondents plaintiffs in Civil Case 4390 below, namely, the six brothers and sisters of respondent Jose T. Imbo and the widow of the testator's second marriage and their six alleged "legitimated children". [14] This might have been a serious error resulting in further delay in the disposition of this case, since said plaintiffs as indispensable parties would have needed to be formally impleaded herein and the corresponding summons issued to them. [15] At any rate, the defect has been cured by the voluntary appearance herein of said plaintiffs through their counsel, Atty. Luz A. Teves, plaintiffs' counsel of record in the- case below and who filed the answer and memorandum in lieu of oral argument as "counsel for respondent Mariano Teves [16] and counsel for plaintiffs in Civil Case No. 4390. " The answer to the petition thus filed by Atty. Teves is further verified by Mariano T. Imbo, one of the plaintiffs. Further-more, by the very nature of the issues, even if said plaintiffs had not thus appeared in this case, the Court's pronouncement as to their action below being barred by res judicata, since copies of the pleadings therein were annexed to the petition, would not be af-fected.

6. Finally, the Court has noted the unduly long number of years that the estate proceedings have been pending since Decem-ber 12, 1949 in the case of the decedent Maria Pastor de Teves (Sp. Proc. No. 675) and since January 8, 1955 in the case of the decedent Pedro Teves (Sp. Proc. No. 1010), notwithstanding that it is of record in the 1964 case that on October 20, 1956, all the heirs made a joint manifestation for the two proceedings to be con-sidered either jointly or simultaneously, as the properties left by the two decedents consisted of their conjugal properties. It is like-wise of record in the said case that the indebtedness left by the joint estate was insignificant and that most of the real properties of the estate were partitioned by the will of the deceased testator among the heirs including the children of the second wife, and that all the heirs expressed their conformity with the disposition of the said will, with no legitime of any compulsory heir having been prejudiced. Yet, as late as respondents' memorandum of August 29, 1967, it is therein manifested that "up to now, there has been no declaration of heirs and distribution of the estate" in the said proceeding pending before the probate court. Respondent court and respondents executor and administrators are enjoined to exert their best efforts towards expeditiously effecting such final distribution and closing of the joint estate proceedings.

ACCORDINGLY, the writs prayed for are hereby granted. The writ of certiorari is granted and the questioned orders of respondent court (Annexes "E", "H" and "J") of the petition are annulled and set aside;

The writ of prohibition is granted, hereby per-petually enjoining respondent court from further taking cognizance of the complaint in Civil Case No. 4390 of said court and from further taking any pro-ceedings in connection therewith, other than to dis-miss the complaint, except that it may proceed to try and decide on the merits the counterclaim and cross-claim for actual and exemplary damages and attorneys' fees and costs filed by petitioners in their answer as defendants therein; and

The writ of mandamus is likewise granted and respondent court is directed to forthwith is-sue the writ of execution and corresponding or-ders in implementation of this Court's judgment of March 31, 1964 in Habaña vs. Imbo, G. R. Nos. L-15598 and L-15726, as prayed for in the peti-tioners' motion dated August 19, 1964 filed in the estate proceedings (Annex "A" of the petition).

With reference to the Court's observations in paragraph 6 of this decision, respondent court is directed to advise the Court through the Secre-tary of Justice of the action taken by it to effect the final distribution of the estate and the closing of the settlement proceedings.

With costs jointly and severally against private respondents.

Let a copy of this decision be furnished the Secretary of Justice for his information and nota-tion.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Barredo, JJ., concur.
Villamor, J., on leave.

[1] L-15598 & L-15726, entitled "In the matter of the Intestate Estate of the Deceased Maria Pastor de Teves, Pedro Teves, petitioner; Testate Estate of the Deceased Pedro Teves, Mariano Teves, executor-petitioner, Conrado Habaña and Rosario Habaña, petitioners-appellants, vs. Jose T. Imbo, administrator, Concepcion Teves, co-administratrix, of Pedro Teves and Maria Pastor, viz: Mariano Imbo and Luciano Imbo, Jr., represented by their guardian ad litem Luciano Imbo, Sr., Remedios Imbo, Corazon T. Imbo, Luciano Imbo, Sr., Jesusa Imbo, Maria Imbo and the heirs of Pedro Teves and Maria Dizon, viz: Liberata, Ariston, Milagros, Pedro Teves, Jr., Monica, Juanita, and Benjamin, all surnamed Teves and Henry Teves, Devisee in the Will of Pedro Teves, respondents-appellees', 10 SCRA 471.

[2] Note in parentheses supplied; emphasis copied.

[3] Emphasis supplied.

[4] Idem.

[5] Civil Case No. 4390 of the Court of First Instance of Negros Oriental, entitled "Ariston Teves, Maria Dixon de Teves, Liberata Teves, Monica Teves, Pedro Teves, Jr., Julita Teves, Benjamin Teves, Maria T. Imbo, Remedios T. Imbo, Mariano T. Imbo, Luciano T. Imbo, Jr., Corazon T. Imbo, Jesusa T. Imbo, and Jose T. Imbo, plaintiffs, vs. Conrado Habaña, Rosario Remollo de Habaña, spouses, and Concepcion Teves, defendants".

[6] Annex E, petition.

[7] Annex H, petition.

[8] Annex J, petition.

[9] 30 SCRA 318 (Oct. 31, 1969) and cases cited.

[10] This refers to the aborted sale rescinded on November 7, 1957 by respondent court's order upon motion of Jose T. Imbo himself. Their tortuous contention here is that Imbo was never reimbursed the P10,000. 00 that he

paid the estate for the rescinded sale, and that he therefore "stepped into the shoes" of the estate's creditors "because out of the sale most of the obligations of the estate were paid."

[11] *Florendo vs. Gonzales*, 86 Phil. 631 (1950), citing *Peñalosa vs. Tuason*, 22 Phil. 303 (1912).

[12] 28 SCRA 1 (May 8, 1969).

[13] *Tangunlay vs. Quiros*, 10 Phil. 360, 365 (1912), cited in *Pua vs. Lapitan* 107 Phil. 95 (1960).

[14] *Supra*, see fn. 5.

[15] See Rule 65, section 5 of the Rules of Court.

[16] Executor of the will of the testator Pedro Teves, later substituted by Perfecto Y. Teves as such executor, upon Mariano Teves' death.

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