

**SIMEONA GANADEN VDA. DE URSUA, PLAINTIFF AND APPELLANT,
VS. FLORENIO PELAYO, DEFENDANT AND APPELLEE.***G.R. No. L-13285. April 18, 1960*

Ponente: CONCEPCION, J.

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This is an appeal from a decision of the Court of First Instance of Manila, dismissing the case at bar. Although plaintiff Mrs. Simeona Ganaden Vda. de Ursua had announced her intention to appeal to the Court of Appeals, the latter subsequently forwarded the record to this Court, she having raised in her brief purely questions of law.

In her complaint, plaintiff seeks to annul the decision of the Court of First Instance of Manila in Civil Case No. 24465 thereof, and an order of the same Court for the execution of said decision, as well as to recover damages, upon the theory that said decision and order are void for want of due process. Defendant Florenio Pelayo filed a motion to dismiss upon the ground that plaintiff's action is barred by a prior judgment, and that the complaint states no cause of action. Thereupon, the lower court issued the order appealed from, dismissing the case, with costs against the plaintiff. The pertinent portions of said order read:

"It is a well-settled rule in this jurisdiction that no Judge can annul the order issued by a Judge of another branch of the same court and of the same category, (Montesa, et al. vs. Manila Cordage Co., G. R. No. L-459, September, 1961). If a Judge of the same category cannot revoke or annul any order or decision of a Judge of another branch of the same court, much less can the same Judge annul a final judgment rendered by another court of the same category, for the reason that by doing so, the Judge will assume the power of reviewing the judgment of another court of the same category, which power belongs exclusively to the superior court.

"Wherefore, this Court hereby orders that this case be, as it is hereby, dismissed, with costs against the plaintiff,"

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 purpose 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.

Although the lower court erred in finding itself, in effect, without jurisdiction to entertain the complaint herein,

respondent's motion to dismiss is well-taken, and the case at bar was properly dismissed, plaintiff's action being barred, under the principle of *res adjudicata*, by the proceedings held in the aforementioned civil case No. 24465.

Indeed, it appears that, on October 29, 1954, defendant herein, Florenio Pelayo instituted said case against Mrs. Ursua. In his complaint, Pelayo alleged that he owns Lot No. 6 of Nuestra Señora de Guia Estate, District of Tondo, Manila, he having purchased the same from the government; that, since 1950, Mrs. Ursua had been molesting him in his possession of said lot, claiming that she is the owner thereof; that this claim of Mrs. Ursua is groundless in law and in fact; and that, owing to her unlawful acts of interference in his possession and ownership, plaintiff had suffered damages, for which reason he prayed for judgment declaring him absolute owner of said lot and sentencing Mrs. Ursua to pay the aforementioned damages. In her answer, Mrs. Ursua alleged that the sale to Pelayo was illegal and void, because she had a better right to purchase the lot in question, she having been in possession thereof in good faith long before the aforementioned sale, and because Pelayo had succeeded in buying it through fraudulent misrepresentations.

Notice of the hearing of case No. 24465 was seasonably served upon her counsel. According to her complaint in the present case, said notice was received by one Atty. Crispulo Ducusin, who, however, did not deliver or transmit it to Atty. Federico Ganaden, the attorney in charge of said case No. 24465. Hence, when the same was heard on May 17, 1955, neither Mrs. Ursua nor her counsel appeared. The hearing took place, therefore, in her absence. The deputy clerk of court was authorized to receive the evidence, and, thereafter, on May 24, 1955, the court rendered a decision declaring that the lot in dispute belongs to Pelayo, ordering Mrs. Ursua to vacate the property, and sentencing her to pay damages for the use thereof, plus attorney's fees. Copy of this decision was served upon her counsel on June 2, 1955. However, Atty. Ducusin, who received it, according to the complaint in the present case, failed to turn said copy over to Atty. Ganaden, who was then in San Fernando, La Union. As soon as she learned of this decision, on July 9, 1955, Mrs. Ursua filed a petition for relief from judgment upon the ground of excusable negligence, but this petition was denied on August 2, 1955. Mrs. Ursua tried to appeal, but in vain, her counsel having failed to prosecute the appeal in due time. Hence, said decision of May 24, 1955 became final.

On September 21, 1955, she moved to set it aside and for a new trial, upon the theory that said decision was rendered without due process of law, because the evidence in support thereof was introduced before the deputy clerk of court, not before the Judge himself (although the latter had authorized the former to receive said evidence), *Ins. Co. of North America vs. Phil. Ports Terminal, Inc.* and because, in all probability, the decision was not prepared personally by said Judge it having been rendered almost four (4) months before the transcription of the stenographic notes of the hearing before the deputy clerk of court. This motion was denied on October 4, 1955, whereupon Mrs. Ursua filed, with the Supreme Court a petition for a writ of certiorari (G. R. No. L-9790) to annul said decision, upon the same grounds relied upon in the aforementioned motion, dated September 21, 1955, to set aside the judgment and for a new trial. However, this petition for certiorari was not given due course by the Supreme Court.

Thus, the cause of action set forth in the complaint herein and the remedy therein prayed for were actually pleaded and sought by Mrs. Ursua in civil case No. 24465. Her alleged right to said remedy was passed upon by the court having jurisdiction over the case, and, if its ruling thereon was not brought for review to an appellate court, it was all due to the failure of counsel for Mrs. Ursua to appeal in due time. Inasmuch as the cause of action and the relief prayed for herein have already been adjudicated in case No. 24465, and the parties therein are identical to the parties in the case at bar, it follows that the same is barred by the aforementioned rulings in case No. 24465.

Wherefore, the order of dismissal appealed from is hereby affirmed, although upon a ground other than that stated in said order, with costs against plaintiff-appellant. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera and Gutierrez David, JJ., concur.

Padilla and Endencia, JJ., on leave.

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