

LEE BUN TING AND ANG CHIA, PETITIONERS, VS. HON. JOSE A. ALIGAEN, JUDGE OF THE COURT OF FIRST INSTANCE OF CAPIZ, 11TH JUDICIAL DISTRICT, BRANCH II; ATTY. ANTONIO D. AMOSIN, AS C...

G.R. No. L-30523. April 22, 1977

Ponente: ANTONIO, J.

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ANTONIO, J.:

Petition for certiorari to annul the Orders of respondent court dated October 10, 1968 and November 9, 1968 and other related Orders in Civil Case No. V-3064, entitled "Rafael A. Dinglasan, et al. vs. Lee Bun Ting, et al.", with prayer for the issuance of a writ of preliminary injunction. The antecedent facts are as follows:

On June 27, 1956, this Court rendered judgment in G.R. No. L-5996, entitled "Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.". [1] In that case, We found that:

"In the month of March, 1936, petitioners-appellants sold to Lee Liong, a Chinese citizen, predecessor-in-interest of respondents-appellees, a parcel of land situated on the corner of Roxas Avenue and Pavia Street, Capiz (now Roxas City), Capiz, designated as lot 398 and covered by Original Certificate of Title No. 3389. The cost was P6,000.00 and soon after the sale Lee Liong constructed thereon a concrete building which he used as a place for his lumber business and in part as residence for himself and family. Petitioners had contended that the sale was a conditional sale, or one with the right of repurchase during the last years of a ten-year period, but both the trial court and the Court of Appeals found that the sale was an absolute one. Another contention of the petitioners-appellants is that the sale is null and void as it was made in violation of the provision contained in the Constitution (Article XIII, section 5), but the Court of Appeals found that the purchaser was not aware of the constitutional prohibition while petitioners-appellants were because the negotiations for the sale were conducted with the knowledge and direct intervention of Judge Rafael Dinglasan, one of the plaintiffs, who was at that time an assistant attorney in the Department of Justice. * * *"

(p. 429)

In reply to the contention of appellants therein that as the sale to Lee Liong is prohibited by the Constitution, title to the land did not pass to said alien because the sale did not produce any juridical effect in his favor, and that the constitutional prohibition should be deemed self-executing in character in order to give effect to the constitutional mandate, this Court said:

"* * * In answer we state that granting the sale to be null and void and can not give title to the vendee, it does not necessarily follow therefrom that the title remained in the vendor, who had also violated the constitutional prohibition, or that he (vendor) has the right to recover the title of which he has divested himself by his act in ignoring the prohibition. In such contingency another principle of law sets in to bar the equally guilty vendor from recovering the title which he had voluntarily conveyed for a consideration, that of *pari delicto*. We have applied this principle as a bar to the present action in a series of cases, thus:

* * * * *

"We can, therefore, say that even if the plaintiffs can still invoke the Constitution, or the doctrine in the Krivenko case, to set aside the sale in question, they are now prevented from doing so if their purpose is to recover the lands that they have voluntarily parted with, because of their guilty knowledge that what they were doing was in violation of the Constitution. They cannot escape the law. As this Court well said: A party to an illegal contract cannot come into a court of law and ask to have his illegal objects carried out. The law will not aid either party to an ille-gal agreement; it leaves the parties where it finds them. The rule is expressed in the maxims: 'Ex dolo malo non oritur actio', and 'In pari delicto potior est conditio defendentis.' * * * '

"It is not necessary for us to re-examine the doctrine laid down by us in the above cases. We must add in justification of the adoption of the doctrine that the scope of our power and authority is to interpret the law merely, leaving to the proper co-ordinate body the function of lay-ing down the policy that should be followed in relation to conveyances in violation of the constitutional prohibition and in implementing said policy. The situation of these prohibited conveyances is not different from that of homestead sold within five years from and after the issuance of the patent, (Section 118, C.A. 141, otherwise known as the Public Land Law), for which situation the legislature has adopted the policy, not of returning the homestead sold to the original home-steader, but of forfeiting the homestead and re-turning it to the public domain again subject to disposition in accordance with law. (Section 124, Id.)

"The doctrine of in pari delicto bars petitioners-appellants from recovering the title to the property in question and renders unnecessary the consideration of the other arguments present-ed in appellants' brief.

"There is one other cause why petitioners' remedy cannot be entertained, that is the prescription of the action. As the sale occurred in March, 1936, more than ten years had already elapsed from the time the cause of action accrued when the action was filed (1948)." (pp. 431-432)

Noting the absence of policy governing lands sold to aliens in violation of the constitutional prohibition, We further said:

"We take this occasion to call the attention of the legislature to the absence of a law or policy on sales in violation of the Constitu-tion; this Court would have filled the void were we not aware of the fact that the matter falls beyond the scope of our authority and properly belongs to a co-ordinate power." (p. 432)

Accordingly, the petition in the foregoing case was denied.

Twelve (12) years later, on the basis of the decision of this Court in Philippine Banking Corporation vs. Lui She,[2] private respondents Rafael A. Dinglasan, et al., filed a complaint on July 1, 1968 for the recovery of the same parcel of land subject matter of the first-mentioned case. Said complaint was docketed as Civil Case No. V-3064 before respondent court. Private respondents (plain-tiffs before the court a quo) reiterated their contention that the sale made to Lee Liong, predecessor-in-interest of petitioners (defendants a quo), was null and void for being violative of the Constitution, and prayed that plaintiffs be declared as the rightful and legal owners of the property in question; that defendants be ordered to vacate the premises, to surrender possession thereof to plain-tiffs and to receive the amount of P6,000.00 from the plaintiffs as restitution of the purchase price; and that defendants be ordered to pay damages to the plaintiffs in the amount of P2,000.00 a month from the time of the filing of the complaint until the property is returned to them, as well as the costs of suit.

A motion to dismiss, dated September 23, 1968, was filed by defendants-petitioners on the ground of res judicata, alleging that the decision in the case of "Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.", supra, promulgated on June 27, 1956, has definitely settled the issues between the parties. An opposition thereto was filed by plaintiffs, with the averment that the decision in the prior case "cannot be pleaded in bar of the instant action because of new or additional facts or grounds of recovery and because of change of law or jurisprudence." [3] In support of the change in jurisprudence asserted, the decision of this Court in Philippine Banking Corporation vs. Lui She,

supra, was advanced, upon the contention that said decision warrants a reopening of the case and the return of the parcel of land involved to the plaintiffs. A reply to the opposition was filed by defendants by registered mail on October 16, 1968, alleging that the decision in *Philippine Banking Corporation vs. Lui She*, which was promulgated in 1967, "cannot affect the outcome of the instant case. Said 1967 decision cannot be applied to the instant case where there had been already a final and conclusive determination some twelve years earlier. While a doctrine laid down in previous cases may be overruled, the previous cases themselves cannot thereby be reopened. The doctrine may be changed for future cases but it cannot reach back into the past and overturn finally settled cases." [4]

However, on October 10, 1968, before the filing of the above reply, respondent court had issued an Order denying the motion to dismiss. The court said:

"A copy of the decision rendered in the case of *Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.*, G.R. No. L-5996 is attached to the motion to dismiss.

"In that case, the Supreme Court ruled that both parties violated the constitutional prohibition (Article XIII, sec. 9) for the purchaser was an alien and prohibited to acquire residential lot while the vendors, Filipino citizens, can not also recover the property for having violated the constitutional prohibition, under the principle of *pari delicto*. The vendee cannot own the property, neither can the vendor recover what he sold.

"To fill the void, the Supreme Court pointed out that the coordinate body -- Congress of the Philippines -- can pass remedial legislation.

"But Congress failed to act. Neither was there any proceeding after almost twenty years for escheat or reversion instituted by the Office of the Solicitor General after the *Krivenko* decision which prohibits the transfer to aliens of any private agricultural land including residential lands whatever its origin might have been.

"But the Supreme Court took a decisive step and in bold relief dispelled darkening clouds in the case of *Philippine Banking Corporation vs. Lui She*, promulgated September 12, 1967, * * *.

"The concurring opinion of Justice Fernando is very enlightening and elucidating. * * *.

"The Court wishes to refer to the concurring opinion of Justice Fernando as an additional authority supporting the herein order.

"PREMISES CONSIDERED, the Court finds the motion to dismiss unmeritorious and holds that the same be as it is hereby DENIED." [5]

A motion for reconsideration of the foregoing Order was filed by defendants, alleging that their reply to plaintiffs' opposition to the motion to dismiss was not even considered by the court *quo* because the Order was issued before said reply could reach the court. Further, it was asserted that the *Philippine Banking Corporation vs. Lui She* case had the effect of annulling and setting aside only the contracts subject matter thereof "and no other contracts, certainly not contracts outside the issues in said judgment as that in the instant case", and of ordering the return only of the lands involved in said case, and not the land subject of the pre-sent action. Moreover, it was averred that "Nowhere in the majority opinion nor in the concurring opinion in said decision of *Philippine Banking Corporation vs. Lui She* does there appear any statement which would have the effect of reopening and changing previously adjudicated rights of parties and finally settled cases" and that the principle enunciated in such case "should apply after, not on or before, September 12, 1967". The motion for reconsideration was found to have not been well taken and, consequently, was denied by respondent court on November 9, 1968. Defendants were given ten (10) days from receipt of the Order within which to file their answer to the complaint, which defendants complied with.

Defendants' answer, dated December 5, 1968, contained the following allegations, among others:

"(a) The sale of the parcel of land in-volved was made in 1935 before the promulgation of the Constitution.

"(b) Said conveyance was an absolute sale, not subject to any right or repurchase * * *.

"(c) Upon the purchase of the said parcel of land by the deceased Lee Liong, he and defend-ant Ang Chia constructed thereon a camarin for lumber business and later a two-storey five-door accessoria with an assessed valuation of P35,000.00, which said improvements were destroyed during the Japanese entry into the municipality of Capiz in April 1942; thereafter, the same improvements were rebuilt.

"(d) In July 1947, the said Lee Liong being already deceased, defendants as his legal heirs entered into an extrajudicial settlement of said property, there being no creditors or other heirs, and by virtue of said extrajudicial settlement, approximately two-thirds of said property was adjudicated to defendant Ang Chia and Lee Bing Hoo as co-owners and the remaining one-third to defendant Lee Bun Ting.

"(e) The deceased Lee Liong and defendants have been declaring and paying real estate taxes on the said property since 1935 and up to the present year.

* * * * *

In addition to the foregoing, defendants reiterated their defense of res judicata, on the basis of the decision of the Supreme Court of June 27, 1956. It was, therefore, prayed that the complaint be dismissed, with counterclaim for attorney's fees and expenses of litigation or, in case of adverse judgment, that plaintiffs be ordered to pay the reasonable equivalent of the value of the property at the time of the restoration, plus reimbursement of improvements thereon.

A reply and answer to the counterclaim, dated December 14, 1968, was filed by plaintiffs. On March 31, 1969, respondent court issued an Order denying a motion filed by petitioners for simplifi-cation of the issues and for the striking out from the records of the declaration of Rafael Dinglasan under the Survivorship Disqualification Rule. A motion for reconsideration of the foregoing Order was denied on May 7, 1969.

During the pendency of the trial, plaintiffs filed a petition for the appointment of a receiver "to receive, collect and hold in trust all income of the property in the form of monthly rentals of P2,000.00", on the premise that defendants have no other visible property which will answer for the payment of said rentals. This petition was opposed by defendants, alleging that plaintiffs will not suffer any irreparable injury or grave damage if the petition for receivership is not granted, par-ticularly as defendants are solvent, and further considering that defendants have a building on the parcel of land, the value of which must likewise be considered before plaintiffs can be awarded possession of the land. The matter of receivership was heard by respondent court and on May 17, 1969, it issued an Order appointing respondent Atty. Antonio D. Amosin, Deputy Clerk of Court, as receiver, with instructions to take immediate possession of the property in litigation and to preserve, administer and dispose of the same in accordance with law and order of the court, upon the posting of a bond in the amount of P500.00. On May 17, 1969, the ap-pointed receiver took his oath. Hence, the instant petition.

Petitioners herein pray that judgment be rend-ered annulling and setting aside respondent court's complained of Orders dated October 10, 1968. Novem-ber 9, 1968, March 31, 1969, May 7, 1969 and May 17, 1969, and ordering the dismissal of Civil Case No. V-3064 of respondent court on the ground of res judicata. Petitioners further prayed for the issuance of a writ of preliminary injunction to res-train respondent court from proceeding with the scheduled hearings of the case, and respondent receiver from executing the order to take immediate possession of the property in litigation.

On June 16, 1969, this Court issued the writ of preliminary injunction prayed for, restraining respondent court

from continuing with the scheduled trial of the case and respondent receiver from executing the order to take immediate possession of the property in litigation and/or from otherwise discharging or performing his function as receiver.

The issue posed before Us is whether the questions which were decided in *Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.*, supra, could still be relitigated in Civil Case No. V-3064, in view of the subsequent decision of this Court in *Philippine Banking Corporation vs. Lui She*, supra.

We resolve the issue in the negative. The decision of this Court in G.R. No. L-5996, "*Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.*" constitutes a bar to Civil Case No. V-3064 before the respondent court. Said civil case, therefore, should have been dismissed because it is a mere relitigation of the same issues previously adjudged with finality, way back in 1956, between the same parties or their privies and concerning the same subject matter. We have consistently held that the doctrine of *res judicata* applies where, between a pending action and one which has been finally and definitely settled, there is identity of parties, subject matter and cause of action.

The concept of *res judicata* as a "bar by prior judgment" was explained in *Comilang vs. Court of Appeals, et al.*, promulgated on July 15, 1975,[6], thus:

"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 juridically 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. * * *

* * * * *

"This principle of *res judicata* is embodied in Rule 39, Sec. 49(b) and (c) of the Rules of Court, as follows:

'(b) In other cases the judgment or order is, with respect to the matter 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 commencement of the action or special proceeding, litigating for the same title and in the same capacity.

'(c) In any other litigation between the same parties or their successors-in-interest, that only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or was actually and necessarily included therein or necessary thereto.'

"Sec. 49(b) enunciates that concept of *res judicata* known as 'bar by prior judgment' while Sec. 49(c) refers to 'conclusiveness of judgment.' There is 'bar by prior judgment' when, between the first case where the judgment was rendered and the second case which is sought to be barred, there is identity of parties, subject matter and cause of action. The judgment in the first case constitutes an absolute bar to the subsequent action. It is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose and of all matters that could have been adjudged in that case. But where between the first and second cases, there is identity of parties but no identity or cause of action, the first judgment is conclusive in the second case, only as to those matters actually and directly controverted and determined and not as to matters merely involved therein." (pp. 76-78).

A comparison between the earlier case of "*Rafael Dinglasan, et al. vs. Lee Bun Ting, et al.*" (G.R. No. L-5996) and the case pending before respondent court[7] reveals that the requisites for the application of the doctrine of *res judicata* are present. It is undisputed that the first case was tried and decided by a court of competent jurisdiction, whose decision was affirmed on appeal by this Tribunal. The parties to the two cases are

substantially the same, namely, as plaintiffs, Rafael A. Dinglasan, Carmen A. Dinglasan, Francisco A. Dinglasan, Jr., Ramon A. Dinglasan, Lourdes A. Dinglasan, Mercedes A. Dinglasan, Concepcion A. Dinglasan, Mariano A. Dinglasan, Jose A. Dinglasan, Loreto A. Dinglasan, Manuel A. Dinglasan, Rizal A. Dinglasan and Jimmy Dinglasan (the differences being the inclusions of the minor Vicente Dinglasan in L-5996 and Jesse Dinglasan in the case before respondent court), against defendants Lee Bun Ting and Ang Chia, in her capacity as widow of the deceased Lee Liong (and Administratrix of his estate in L-5996). The subject matter of the two actions are the same, namely, that "parcel of land, Cadastral Lot No. 398, located at Trece de Agosto Street, now Roxas Avenue, corner of Pavia St., in the municipality of Capiz, now Roxas City, covered by Original Certificate of Title No. 3389 of the Office of Register of Deeds of Capiz in the name of * * * Francisco Dinglasan and originally declared under Tax (Declaration) No. 19284 also in his name in the municipality of Capiz, but now declared as Cadastral Lots Nos. 398-A and 398-B respectively under Tax Declarations Nos. 7487 and 7490 in the City of Roxas in the names of Ang; Chia Vda. de Lee and Lee Bun Ting respectively * * *". The causes of action and the reliefs prayed for are identical - the annulment of the sale and the recovery of the subject parcel of land.

Notwithstanding the mode of action taken by private respondents, We find that in the ultimate analysis, Civil Case No. V-3064 is but an attempt to reopen the issues which were resolved in the previous case. Contrary to the contentions of private respondents, there has been no change in the facts or in the conditions of the parties. Neither do We find Our ruling in the Philippine Banking Corporation case applicable to the case at bar, considering the rule that posterior changes in the doctrine of this Court cannot retroactively be applied to nullify a prior final ruling in the same proceeding where the prior adjudication was had, whether the case should be civil or criminal in nature. The determination of the questions of fact and of law by this Court on June 27, 1956 in case No. L-5996 has become the law of the case, and may not now be disputed or relitigated by a reopening of the same questions in a subsequent litigation between the same parties and their privies over the same subject matter. Thus, in *People vs. Olarte*,^[8] We explained this doctrine, as follows:

"Suffice it to say that our ruling in Case L-13027, rendered on the first appeal, constitutes the law of the case, and, even if erroneous, it may no longer be disturbed or modified since it has become final long ago. A subsequent reinterpretation of the law may be applied to new cases but certainly not to an old one finally and conclusively determined" (*People vs. Pinuila*, G.R. No. L-11374, May 30, 1958; 55 O.G. 4228).

'Law of the case' has been defined as the opinion delivered on a former appeal. More specifically, it means that whatever is once irrevocably established as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not; so long as the facts on which such decision was predicated continue to be the facts of the case before the court. (21 C.J.S. 330). (cited in *Pinuila* case, *supra*)

'As a general rule a decision on a prior appeal of the same case is held to be the law of the case whether that decision is right or wrong, the remedy of the party being to seek a rehearing. (5 C.J.S. 1277).' (also cited in *Pinuila* case)

It is also aptly held in another case that:

'It need not be stated that the Supreme Court, being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case. Once its judgment becomes final it is binding on all inferior courts, and hence beyond their power and authority to alter or modify.' (*Kabigting vs. Acting Director of Prisons*, G.R. No. L-15548, October 30, 1962).

"More categorical still is the pronouncement of this Court in *Pomeroy vs. Director of Prisons*, L-14284-85, February 24, 1960:"

'It will be seen that the prisoner's stand assumes that doctrines and rulings of the Supreme Court operate retrospectively, and that they can claim the benefit of decisions in *People vs. Hernandez*; *People vs. Geronimo*, and *People vs. Dugonon* (L-6025?26, July 18, 1956; L-8936, Oct. 31, 1956; and L-8926, June 29, 1957, respectively), promulgated four or more years after the prisoner applicants had been convicted by final judgment and started serving sentence. However, the rule adopted by this Court (and by the Federal Supreme Court) is that judicial doctrine have only prospective operation and do not apply to cases previously decided (*People vs. Pinuila*, L-11374, promulgated May 30, 1958).'

"In the foregoing decision, furthermore, this Court quoted and reiterated the rule in the following excerpts from *People vs. Pinuila*, G.R. No. L-11374, *jam cit.*:

"The decision of this Court on that appeal by the government from the order of dismissal, holding that said appeal did not place the appellants, including Absalon Bignay, in double jeopardy, signed and concurred in by six justices as against three dissenters headed by the Chief Justice, promulgated way back in the year 1952, has long become the law of the case. It may be erroneous, judged by the law on double jeopardy as recently interpreted by this same Tribunal. Even so, it may not be disturbed and modified. Our recent interpretation of the law may be applied to new cases, but certainly not to an old one finally and conclusively determined. As already stated, the majority opinion in that appeal is now the law of the case."

"The same principle, the immutability of the law of the case notwithstanding subsequent changes of judicial opinion, has been followed in civil cases:

Fernando vs. Crisostomo, 90 Phil. 585:

Padilla vs. Paterno, 93 Phil. 884.

Samahang Magsasaka, Inc. vs. Chua Guan, L-7252, February, 1955.

"It is thus clear that posterior changes in the doctrine of this Court can not retroactively be applied to nullify a prior final ruling in the same proceeding where the prior adjudication was had, whether the case should be civil or criminal in nature." [9]

Reasons of public policy, judicial orderliness, economy and judicial time and the interests of litigants, as well as the peace and order of society, all require that stability be accorded the solemn and final judgments of the courts or tribunals of competent jurisdiction. There can be no question that such reasons apply with greater force on final judgments of the highest Court of the land.

WHEREFORE, certiorari is granted, the Orders complained of are hereby annulled and set aside, and respondent Judge is directed to issue an Order dismissing Civil Case No. V-3064. With costs against private respondents.

Barredo, Aquino, and Concepcion, Jr., JJ., concur.

Castro, C.J., in the result.

Fernando, (Chairman), J., did not take part.

[1] 99 Phil. 427.

[2] 21 SCRA 52.

[3] Annex "D", Petition, p. 63, SC Rollo.

[4] Annex "E", *Ibid.*, p. 72, SC Rollo.

[5] Annex "F", Ibid., pp. 76-77, SC Rollo.

[6] 65 SCRA 69.

[7] Civil Case No. V-3064, entitled "Rafael A. Dinglasan, et al. vs. Lee Bun Ting, et al."

[8] 19 SCRA 494, 498-499.

[9] See also: Zarate v. Director of Lands, 39 Phil. 747; Comilang v. Court of Appeals, supra.

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