

**LEOPOLDO VENCILAO, MAURO RENOBLAS, TELESFORO BALONDA,
FELIX ABANDOLA, ET AL., PLAINTIFFS AND APPELLANTS, VS.
TEODORO VANO, JOSE REYES, ROSARIO REYES, ET AL.,
DEFENDANTS AND APPE...**

G.R. No. L-25660. August 12, 1966

Ponente: DIZON, J.

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DIZON, J.:

The matter before the court is a motion dated June 21, 1966 to dismiss the appeal of plaintiffs-appellants Leopoldo Vencilao, Mauro Renoblas and others named therein pursuant to Section 1, paragraph (i), Rule 50 of the Rules of Court.

The present is an action commenced in the Court of First Instance of Bohol to have the plaintiffs declared lawful owners and possessors of the parcels of land described in their complaint and to order the defendants to execute deeds of reconveyance in their favor.

It appears that, as alleged in the motion, defendants, "after they had been given the opportunity to present their evidence" filed a motion to dismiss. Resolving the same, the lower court dismissed the case only with respect to the following fifteen plaintiffs:

- (1) Alejandro Renoblas,
- (2) Fausto Gabaisen,
- (3) Fabian Villame,
- (4) Gregorio Ita-oc,
- (5) Fortunato Ita-oc,
- (6) Faustino Ita-oc,
- (7) Roberto Haganas,
- (8) Felisa Haganas,
- (9) Fermin Haganas,
- (10) Victoriano Haganas,
- (11) Julia Sevilla,
- (12) Ramon Matela,
- (13) Roberto Matela,

(14) Procopia Cabanas, and

(15) Vicente Omusora

on the ground of res judicata and denied the same with respect to the remaining plaintiffs. Subsequently, the latter filed a motion to declare defendants in default, which motion was denied by the lower court in its order of August 25, 1965. On September 20 of the same year the defendants filed their answer with affirmative defenses and thereafter the plaintiffs filed another motion asking the court to disregard said answer, but this motion was also denied by the court in its order of October 20, 1965. Thereafter the plaintiffs took the present appeal which, according to their notice of appeal (Record on Appeal, pp. 98-99), is from the orders of the trial court dated August 25, 1965 denying the motion for reconsideration filed by the plaintiffs adversely affected by the order of dismissal, and also denying the motion filed by the other plaintiffs to declare the defendants in default.

The order dismissing the case as far as the fifteen plaintiffs named above are concerned is clearly a final order as distinguished from a merely interlocutory order, because, as far as said plaintiffs are concerned, it is a final disposition of the case. However, the order of the court denying the motion to declare the defendants in default is clearly of an interlocutory character. Therefore, while the first order is appealable, the latter is not. Consequently, the present appeal in so far as it is taken from the order of the lower court denying plaintiffs' motion to declare the defendants in default is dismissed, while it is hereby allowed to proceed as an appeal from the order of the trial court dismissing the complaint with respect to the fifteen plaintiffs mentioned above.

Concepcion, C.J., Reyes, JBL, Barrera, Makalintal, Bengzon, JP, Sanchez, and Ruiz Castro, JJ., concur.
Regala, and Zaldivar, JJ., no part.

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