

ELENA GONZALES, PETITIONER, VS. BONIFACIO YSIP, JUDGE OF FIRST INSTANCE OF BULACAN, AND ADELA VELASQUEZ, RESPONDENTS.*G.R. No. L-919. November 28, 1946*

Ponente: PARAS, J.

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Among the records of the Court of First Instance of Bulacan which were lost prior to the liberation of the Philippines is that of civil case No. 118, Elena Gonzales vs. Adela Velasquez. In a petition dated April 27, 1946, filed in said court by the attorney for the plaintiff (petitioner herein), it was prayed that the documents accompanying the petition—complaint dated July 21, 1943; answer dated August 30, 1943; motion for postponement dated January 28, 1944; minutes of the session of November 27, 1944; testimony of the plaintiff and her witnesses duly subscribed and sworn to by them; decision dated December 14, 1944,— be admitted, and that thereafter the case be declared duly reconstituted. The attorney for the defendant (one of the respondents herein) interposed an opposition to the admission of the minutes, testimony, and decision on the ground that the proceedings evidenced thereby were illegal, it being alleged in this connection that the deputy clerk of the Court of First Instance of Bulacan was not authorized to receive the evidence, that the said respondent or her attorney never received any notice of the trial supposed to have been held on November 27, 1944, or of the decision dated December 14, 1944. In his order dated August 2, 1946, Judge Bonifacio Ysip (another respondent herein) rejected the documents thus objected to and ordered the parties to again adduce their respective evidence.

This order is being complained of in the present petition for certiorari and mandamus as being in excess of the jurisdiction of the respondent Judge or constituting an abuse of discretion.

The only purpose of the reconstitution of a case is to restore its record in its status QUO and, therefore, in the proceedings for reconstitution, the court and the parties should concern themselves solely with the question of whether the documents presented for purposes of reconstitution are authentic and really formed part of the original record.

In the case at bar, the attorney for the respondents did not impugn the correctness of the papers in question and limited his objection to their binding or legal effect. Indeed, the authentic character of the documents could not be seriously doubted, because they were certified under oath by the attorney for the petitioner, in his petition dated April 27, 1946, as being true copies, and because the decision in dispute was further certified by the deputy clerk of the respondent court. Hence, the latter was bound, under the provision of Act No. 3110, to admit the same. Whether the proceedings purported to be shown by said documents are valid, or not, is a question which the attorney for the respondents may raise in due time after the case shall have been declared duly reconstituted. In other words, the reconstitution of a case does not preclude a party from seeking, in the manner indicated by the Rules of Court, relief from the effects of any judgment, order or other proceeding.

The order of the respondent judge of August 2, 1946, is hereby set aside and he is ordered to admit the documents

specified in the petition dated April 27, 1946, and thereafter to declare civil case No. 118 duly reconstituted. So ordered, with costs against the respondent Adela Velasquez.

Moran, C. J., Feria, Pablo, Perfecto, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

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