

**PACIENCIA LIM VDA. DE SERRANO, PETITIONER, VS. THE
HONORABLE COURT OF APPEALS, HERMILA CARTA-GENA,
SALVACION MAGUINSAWAN, MIRALUNA MAGUIN-SAWAN AND
HERMILINA MAGUINSAWAN, RESPON...**

G.R. No. L-28332. June 30, 1970

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by Paciencia Lim Vda. de Serrano from a decision of the Court of Appeals, the dispositive part of which reads:

"WHEREFORE, the judgment appealed from is hereby reversed and set aside and another is rendered declaring the plaintiffs Salvacion Maguinsawan, Miraluna Maguinsa-wan and Hermilina Maguinsawan as co-owners of the pro-perties described in paragraph 7 of the complaint, subject to the usufructuary right of plaintiff Hermila Cartagena in accordance with Article 834 of the old Civil Code; ordering the defendant spouses, Paciencia Lim Serrano and Antonio Serrano, to deliver possession of said properties to the plaintiffs and to render an accounting of the fruits and income thereof from 1947 until they shall have surrendered possession thereof to the plaintiffs; and ordering all the defendants to pay the plaintiffs the sum of P1,000.00 as attorney's fees. Costs in both instances shall be against the defendants."

The main facts are set forth in said decision, from which We quote:

"This is an appeal by the plaintiffs, Hermila Carta-gena and her children, Salvacion, Miraluna and Hermilina all surnamed Maguinsawan, from a decision of the Court of First Instance of Davao dismissing their complaint against Anuncio Delaman, Gorgonio Delaman, and the spouses Antonio Serrano and Paciencia Lim. Serrano, for recovery of ownership and possession of four (4) parcels of land described in paragraph 7 of the complaint as fol-lows:

- '1. A parcel of agricultural land located at Banahawan Bro. of Taragona, Municipality of Mati, Davao, bounded on the North by Banahawan River; on the East by Francisco Bonga; on the South by A. Masosquid; and on the West by P. Calicot, con-taining an area of about 24,000 hectares, with the following improvements, 1,000 ponos of cocos, 1-A prod; 1,000 ponos of cocos, 2-A productive (sic).
- '2. A parcel of agricultural land located at Jovellar, Taragona, Mati, Davao, bounded on the North by N. Lomante; on the East by Provincial Road; on the South by Manoanon Creek and on the West by Langon Creek, containing an area of about three (3) hectares or more, with no less than 300 ponos of cocos productive.
- '3. A parcel of land located at Silingan, Tara-gona, Mati, Davao, bounded on the North by Pura-kawa Plant Co., on the East by Policiano Carreon; on the South by Public lands, containing an area of about 21,000 hectares, more or less, planted to coconuts, all productive and to palay and corn from season (sic).
- '4. A residential lot situated at Taragona, Mati, Davao, bounded on the North by Barrio Plaza, on the East by San

Pedro Street, on the South by Alegaris Street, and on the West by Eulogio Lo-manto, containing an area of 306 square meters, more or less.'

"The plaintiffs are the wife and children of Francisco Maguinsawan, who died in Taragona, Mati, Davao, on February 22, 1942. The properties in dispute form part of his estate.

"In Special Case No. 265 of the Court of First Instance of Davao, entitled 'In the matter of the Intestate Estate of Francisco Maguinsawan,' commenced on August 6, 1945[1] by Paciencia Lim Serrano, an alleged creditor of the deceased, Francisco's mother, Ceferina Dilag, who died sometime in 1943, was declared the sole heir to his entire estate.

"In Special Case No. 730 of the same court, entitled 'Intestate Estate of Ceferina Dilag,' Ceferina's surviving sister, Bruna Dilag, was declared her legal heir and was adjudged entitled to the above properties'.

"Bruna Dilag died single and without any issue on January 5, 1958. In Special Case No. 947, also of the Court of First Instance of Davao, entitled 'Intestate Estate of Bruna Dilag,' her nephews, herein defendants Anuncio Delaman and Gorgonio Delaman, were declared her legal heirs and the properties in litigation were adjudicated in their favor. Thereafter, on November 22, 1960[2] defendants Anuncio Delaman and Gorgonio Delaman sold said properties to defendant Paciencia Lim Serrano who, together with her husband Antonio Serrano, is presently in possession thereof.

"The complaint in this case was originally filed on October 30, 1958 against Anuncio Delaman and Gorgonio Delaman as defendants. It was amended on June 26, 1961, to include the spouses Antonio Serrano and Paciencia Lim Serrano as defendants.

"As cause of action, plaintiffs allege that Francisco Maguinsawan, husband of Hermila Cartagena, died on or about February 22, 1942, in Taragona, Mati, Davao; that the two lived together as husband and wife from 1935 until the death of Francisco Maguinsawan in 1942 and begot three children, namely, the remaining plaintiffs Salvacion, Miraluna and Hermilina all surnamed Maguinsawan; that during said period, Francisco Maguinsawan acquired the properties in question, which he and Cartagena improved and cultivated thru their joint efforts; that the defendants, by subtle scheme, stealth, strategy and fraud, caused the filing of the three intestate proceedings mentioned above, resulting in the adjudication of the properties in litigation in favor of defendants Anuncio Delaman and Gorgonio Delaman, and that on October 29, 1959,[3] defendants Paciencia Lim Serrano and Antonio Serrano who, with malice afore-thought and bad faith, instigated the filing of said proceedings, bought the properties from defendants Anuncio Delaman and Gorgonio Delaman.

"The defendants denied the material averments of the complaint and, as special defense, alleged that the present action is now barred by Special Cases Nos. 265, 730 and 947. The defendant spouses further averred that they are purchasers for value and in good faith of the properties in litigation.

"Against the decision of the court a quo dismissing their complaint, the plaintiffs have, in their appeal brief, assigned the following errors:

- '1. Trial Court erred in not finding that the plaintiffs were the victims of Scheme, Stealth, Strategy and Fraud in connection with Special Cases Nos. 265, 730 and 947.
- '2. The Trial Court erred in holding that the plaintiff Hermila Cartagena voluntarily appeared and intervened in Special Case No. 265.
- '3. The Trial Court erred in holding that the action should be dismissed on the ground of prior judgment.
- '4. The Trial Court erred in not finding that the plaintiff Hermila Cartagena and the deceased Francisco Maguinsawan were presumed to be legally married.

'5. The Trial Court erred in not finding that the plaintiffs Salvacion Maguinsawan, Miraluna Maguinsawan and Hermilina Maguinsawan, at the very least, enjoyed the status of acknowledged natural children and therefore entitled to inherit.

'6. The Trial Court erred in finding that the plaintiff Hermila Cartagena is not entitled to one-half of the properties left by Francisco Maguinsa-wan.'"

After appropriate proceedings, the Court of Appeals found that the last assignment of error is untenable - Hermila Cartagena having admitted, during the trial, that the properties in question had been acquired by Francisco Maguinsawan before their alleged marriage in 1935, and, hence, were his "exclusive properties" but upheld the first, second, third and fourth assignments of error, in view of which, without passing upon the fifth assignment of error which was evidently unnecessary - it rendered the appealed decision in favor of Salvacion, Miraluna and Hermilina Maguinsawan, and their mother, Hermila Cartagena. Although Anuncio Delaman and Gorgonio Delaman were defendants in the trial court and appellees in the Court of Appeals, together with the spouses Paciencia Lim Serrano and Antonio Serrano, said Anuncio and Gorgonio Delaman did not appeal from the unfavorable decision of said appellate court.

The case has been brought to Us on appeal by certiorari taken by Paciencia Lim Vda. de Serrano, whose husband had died in the meanwhile. She maintains that the Court of Appeals erred: 1) "in holding that the final order of the probate court in Special Case No. 265, declaring that the late Francisco Maguinsawan died unmarried, leaving his mother, Ceferina Dilag, as his only heir, and the final orders of said probate court in Special Cases Nos. 730 and 947 are res judicata"; 2) "in not holding that said final orders x x x cannot be collaterally attacked" in the present case; 3) "in holding that respondent Hermila Cartagena was legally pre-sumed" to be married to Francisco Maguinsawan, and in granting her the corresponding usufructuary right; 4) in declaring that Salvacion, Miraluna and Hermilina Maguinsawan are "legitimate children and legal heirs of the deceased Francisco Maguinsawan, and in adjudicating the properties in question to them"; 5) "in declaring the deceased Antonio Serrano and his widow, herein petitioner, as purchasers in bad faith"; and 6) "in not affirming the judgment of the Court of First Instance of Davao" dismissing the present case.

The issues thus raised by Mrs. Serrano may be summed up as follows: 1) whether the deceased Francisco Maguinsawan was legally married to Hermila Cartagena; and 2) whether she and her aforementioned children may recover the properties in dispute, despite the final orders issued in Special Cases Nos. 265, 730 and 947.

With respect to the first question, the Court of Appeals said:

"On the question of whether or not Hermila Cartagena was legally married to Francisco Maguinsawan, the preponderance of evidence leans in favor of the claim of said plaintiff that she and the decedent (Francisco Maguinsawan) were married on January 7, 1935. Hermila Cartagena's claim was corroborated by Francisco Sanga, an assigner of Francisco Maguinsawan since the year 1925, who testified to the effect that he was present during their wedding ceremony. Such claim also finds strong support from the documentary evidence Exhibits B, C and F. Exhibit B is a public instrument executed by Francisco Maguinsawan on August 11, 1941, in which he represented himself as "casado" (married). Although the name of the spouse is not mentioned in said instrument, it is reasonable to conclude that he was referring to herein plaintiff Hermila Cartagena since he was then living with her and there is no claim that Francisco Maguinsawan was married to someone else other than Hermila Cartagena.

"Exhibit C is an instrument executed by plaintiff Hermila Cartagena sometime in 1947 designating defendant Paciencia Lim Serrano, to whom Francisco Maguinsawan left an indebtedness in the sum of P1,734.64, as administratrix of the properties in litigation until full payment of said obligation. Said instrument, which was executed before the institution of the present action, refers to plaintiff Hermila Cartagena as 'Hermila C. Vda.

de Maguinsa-wan.'

"Exhibit F is a public record, being a report dated November 4, 1951, submitted by Primitivo Papa, Chief of Cadastral Survey Party No. 20-D, to the Director of Lands in connection with Homestead Application No. 175018 of Francisco Maguinsawan. Said report states, among others, that 'the applicant is married and the name of his wife is Carmila Cartagena' and that he has three children. On the witness stand, Primitivo Papa confirmed the veracity of the contents of his report Exhibit F, declaring that this was prepared on the basis of information given to him personally by Francisco Maguinsawan, then a homestead applicant.

"Moreover, there is hardly any dispute that Francisco Maguinsawan and plaintiff Hermila Cartagena had deported themselves as husband and wife from 1935 until the former's death in 1942. This circumstance gives rise to the presumption that they had entered into a lawful contract of marriage (Rule 131, Sec. 5 (bb), Rules of Court).

"We do not believe that the allegations in Exhibit 2 to the effect that 'the deceased Francisco Maguinsawan had been living as husband and wife with Hermila Cartagena with whom he had three children who are minors' and that 'the said children are at present living with their natural mother Hermila Cartagena' are sufficient either to rebut the above presumption of lawful marriage or to outweigh the plaintiffs' evidence establishing the marriage to plaintiff Hermila Cartagena and the late Francisco Maguinsawan. Exhibit 2 is an opposition filed in Special Case No. 265 by Anatolio Maguinsawan and Alberto Maxey, both uncles of Francisco Maguinsawan, to the petition of Paciencia Lim Serrano for the issuance of letter of administration in her favor. Hermila Cartagena was made to sign Exhibit 2 only to indicate her conformity to the appointment of oppositor Anatolio Maguinsawan as administrator of her husband's estate. It is not shown that she signed Exhibit 2 with full knowledge or understanding of the import of the allegations referred to above.

In view of the foregoing consideration, we hold that plaintiff Hermila Cartagena was legally married to the late Francisco Maguinsawan. And it not being disputed that plaintiffs Salvacion Maguinsawan, Miraluna Maguinsawan and Hermilina Maguinsawan are the children of Hermila Cartagena with the deceased Francisco Maguinsawan, we hereby declare them as legitimate children of the said spouses. As such, they are entitled to inherit the entire hereditary estate of their deceased estate,⁴ Francisco Maguinsawan, subject however to the usufructuary right of plaintiff Hermila Cartagena as surviving spouse of said decedent pursuant to Article 834 of the old Civil Code."

Thus, the Court of Appeals found that Francisco Maguinsa-wan and Hermila Cartagena were legally married and that Salvacion, Miraluna and Hermilina Maguinsawan are their legitimate children. These findings of fact, which, in the language of the law, are "final,"⁵ cannot be disturbed by Us, particularly because its premises - namely, the testimony of Hermila Cartagena, corroborated by that of Francisco Sanga, and bolstered up by Exhibits B, C and F, and by the established fact that Francisco Maguinsawan and Hermila Cartagena had deported themselves as husband and wife from 1935 to the former's death in 1942 - are borne out by the record. In other words, the aforementioned findings of the Court of Appeals are based upon substantial evidence. What is more, such findings are correct.

In passing upon the second question, the Court of Appeals expressed itself as follows:

"In our opinion, Special Cases Nos. 265, 730 and 947 do not constitute a bar to the present action. We note that Special Case No. 265 was instituted by defendant Paciencia Lim Serrano in 1948 after she had been designated by plaintiff Hermila Cartagena to administer the properties in litigation by virtue of the instrument Exhibit C. As already stated above, Exhibit C refers to plaintiff Hermila Cartagena as the widow of Francisco Maguinsawan yet in the petition filed by defendant Paciencia Lim Serrano in Special Case No. 265, no mention is made about her and the other plaintiffs. The petition only names defendant Anuncio Dela-man and Alberto Maxey as the relatives of the late Francisco Maguinsawan. Obviously, defendant Paciencia Lim Serrano intentionally omitted to name the herein plaintiffs in her petition in order to prevent them from

intervening in said proceeding. And this leads credence to the claim of plaintiffs that the intestate proceedings were had through the fraudulent machinations of the defendants, resulting in the adjudication of the properties of the late Francisco Maguinsawan in favor of defendants Anuncio Delaman and Gorgonio Delaman, who are not his legitimate heirs.

"It is true that 'a final order of distribution of the estate of a deceased person vests title in the distributees' (Santos vs. Roman Catholic Bishop of Nueva Caceres, 46 Phil. 875). Nevertheless, the Supreme Court has ruled that a party interested in probate proceedings may have a final liquidation set aside when, as in this case, he is left out by reason of circumstances beyond his control or through mistake or inadvertence not imputable to his negligence (Ramos vs. Ortuzar, 89 Phil. 720). When Special Cases Nos. 730 and 947 were instituted, plaintiffs Salvacion Maguinsawan, Miraluna Maguinsawan and Hermilina Maguinsawan were still minors, which fact, apart from the fraudulent machinations employed by the defendants prevented them from intervening in said proceedings. As to them, therefore, the final orders of distribution issued therein are not binding and conclusive and do not constitute a bar to the present action.

"The pretension of the defendant spouses that they are purchasers in good faith is without merit. They know or ought to have known that plaintiffs are the legitimate heirs of the late Francisco Maguinsawan and, therefore, are the lawful owners of the properties in litigation. In fact, they derived their possession of said properties from plaintiff Hermila Cartagena who, as widow of Francisco Maguinsawan, designated them as administrators thereof in 1947. Having thus purchased the properties from persons who are not the lawful owners thereof, with knowledge of this fact, they did not acquire any valid title thereto."

We are fully in agreement with the foregoing views. Although it is true that final orders in probate cases partake of the nature of a judgment in rem, binding upon the whole world, it does not follow therefrom that said final orders - like any other judgment or final order - cannot - within the statutory period of prescription - be annulled upon the ground of extrinsic fraud. This is especially true when the subsequent action contests the title to the property adjudicated in the probate proceedings and the adjudication has taken place - as it did in Case No. 265 - without the participation of the plaintiffs in the second case.

In this connection, Llanera vs. Logos,⁷ is squarely in point. That case referred to one Gorgonio Llanera who had, on October 13, 1942, died single and intestate, leaving an estate consisting of the proceeds of an insurance policy. On petition of one Remedios Ayque Altavano, the Court of First Instance of Albay found that the only relatives of the deceased were his surviving brothers and sisters, and some nephews and nieces, among whom said estate was ordered distributed, after which the court ordered, on May 28, 1949, that the proceedings for the settlement of the estate be deemed closed. It appeared, however, that the deceased had had a brother who died on June 19, 1935, leaving a son, Eligio, born in Sta. Rosa, Laguna, on July 17, 1925, not included among those mentioned above. Eligio came to know, in 1953, of the death of his uncle, Gorgonio, and the distribution of the proceeds of his insurance policy in the intestate proceedings in Albay. So, on February 21, 1955, Eligio commenced, in the Court of First Instance of Laguna, an action, to recover said proceeds of the insurance policy, against those to whom the same had been adjudicated, but, the latter court dismissed the case, upon the ground of improper venue and prescription of action. On appeal taken by Eligio, We reversed the decision of the trial court, stating:

"The flaw we find in this reasoning is that it presupposes that the instant action is for the settlement of the estate of the deceased Gorgonio Llanera. Such is not the case for his estate has already been settled by the Court of First Instance of Albay so much so that the proceedings were declared closed and terminated on May 28, 1949. The present action is to recover the property illegally adjudicated to the defendants on the ground of fraud and being an action in personam the same can be filed either at the residence of any of the defendants or at the residence of the plaintiff, at the election of the latter (sec. 1, Rule 5). Plaintiff chose to institute the action in the Court of First Instance of Laguna, where he is a resident, and so it is incorrect to say that the venue of the present case has been improperly laid.

"In holding that the present action has already pre-scribed, the trial court also said: 'The claim of the plain-tiff, in the opinion of the, Court, was filed out of time. In summary settlement of the estate of a deceased person, any heir deprived of his lawful participation therein should file the corresponding petition in the court having jurisdiction of the estate within two years after the settlement and distribution thereof (sec. 4, Rule 74, Rules of Court). While the Rules of Court do not prescribe any time limit during which an heir deprived of his lawful parti-cipation in the estate of a person which was settled in a regular testate or intestate proceeding, Article 1100 of the Civil Code, however, provides that action for rescis-sion on account of 'lesion' shall prescribe after four years from the time the partition was made. Considering that judicial partition of the estate of Gorgonio Llanera was made on May 17, 1949, hence plaintiff's action was com-menced beyond the prescriptive period provided by law.'

"Again, we find this reasoning incorrect, for it overlooks the fact that the present action is not for rescis-sion of a contract based on 'lesion' but an action to recover property based on fraud which under our law may be filed within a period of four years from the discovery of the fraud. (sec. 43 par. 3, Act 190). Since, as alleged in the complaint, fraud was discovered only in 1953 and the action was brought in 1955, it is clear that plaintiff's ac-tion has not yet prescribed. It is therefore an error to dismiss the complaint based on prescription."

In the case at bar, from the moment of the death of Fran-cisco Maguinsawan on February 22, 1942, ownership of his estate became vested, by operation of law, in his children, Salvacion, Miraluna and Hermilina Maguinsawan, subject to the right of usu-fruct of his widow, Hermila Cartagena, with no other limitation than the obligation to pay the debt of the deceased in favor of Mrs. Serrano, amounting to P1,734.64. As such creditor, the latter instituted, on August 5, 1948, Special Case No. 265 of the Court of First Instance of Davao and prayed that letters of administra-tion be issued to her. Although she had documentary evidence in her possession indicating that the deceased had been survived by a widow, Hermila Cartagena, and their aforementioned minor children, Mrs. Serrano did not mention this fact to the probate court and instead alleged that the only known relatives left by the deceased are Anuncio Delaman, Alberto Maxey and Anatolio Ma-guinsawan.

Said omission and this allegation become more significant when we consider the fact that the status of Mrs. Serrano as cre-ditor of Francisco Maguinsawan was one inherited by her from her father, Silvestre E. Lim, to whom Antonio Maguinsawan, father of Francisco Maguinsawan, was originally indebted in the sum of P1,052.42; that Antonio Maguinsawan died on June 17, 1941, in view of which, on August 11, 1941, his son, Francisco Maguinsa-wan, executed the deed Exhibit B, above referred to, acknowledg-ing the debt of his deceased father, in favor of Silvestre E. Lim, and promising to pay said debt; that Silvestre E. Lim expressed his agreement thereto and, likewise, signed Exh. B., which states that Francisco Maguinsawan is casado; that, sometime after the latter's death, Hermila Cartagena executed Exh. C as "Hermila C. Vda. de Maguinsawan," stating that, in consideration of the sum of P1,734. 64 "deuda de mi difunto esposo Francisco Maguinsawan con la Sra. Paciencia Lim de Serrano (como representante y heredera de S. E. Lim)," said Hermila Cartagena appointed Mrs. Serrano as administratrix of the properties in question and delivered the same to her; and that, "como esposa del difunto Francisco Maguinsawan," said Hermila Cartagena declared that the aforesaid sum had been received personally by "mi difunto esposo Francisco Maguinsawan."

Thus, the very muniments of title of Mrs. Serrano as cre-ditor of Francisco Maguinsawan, showed that he was married; that his wife was Hermila Cartagena; and that she is his widow. And, Mrs. Serrano must have believed the same to be true, be-cause, otherwise, she would not have secured an acknowledgment of her rights, as such creditor of Francisco Maguinsawan, and her designation as administratrix of his properties, from "Hermila C. Vda. de Maguinsawan x x x como esposa del difunto Francisco Maguinsawan." The failure of the petition, in Special Case No. 265, to name Hermila Cartagena or to refer to her, even if only as one who claims to be the wife or widow of Francisco Maguinsa-wan, and, hence, to have an interest in his estate, must have been, therefore, deliberate on the part of Mrs. Serrano, for the purpose of withholding said facts from the Court and of forestalling

service of notice of the proceedings to Hermila Cartagena and her participation or intervention therein. The indicia of such purpose is further bolstered up by the allegation in the petition to the effect that Anuncio Delaman, Alberto Maxey and Anatolio Maguinsawan "are the relatives of the deceased." It is interesting to note that Mrs. Serrano did not dare testify in the case at bar, to attest that such was her "best knowledge, information and belief" as alleged in said petition - as if she had no information about Hermila Cartagena and her children.

On August 4, 1950, Bruna Dilag and Joaquin Dilag intervened in Special Case No. 265, alleging that they are the only heirs of Ceferina Dilag, mother of the deceased; that she is his only heir; and that she had died intestate in 1943. On November 6, 1954, counsel for Bruna Dilag filed with the Court of First Instance of Davao, Special Case No. 730, for the settlement of the Intestate Estate of Ceferina Dilag and the appointment of Antonio Serrano as administrator thereof. Two (2) days later, or on November 8, 1954, he was appointed as such. Based upon a stipulation of facts submitted in Case No. 265, in which Hermila Cartagena and her minor children were neither mentioned nor represented, said court issued, on the same date, an order declaring Ceferina Dilag the sole heir of Francisco Maguinsawan. Soon thereafter, or on January 21, 1958, Bruna Dilag was declared, in Special Case No. 730, the sole heir of Ceferina Dilag.

A little over two (2) weeks prior thereto, or on January 5, 1958, Bruna Dilag had, however, died. On January 27, 1958, a petition was filed with, and docketed as Special Civil Case No. 947 of, the aforementioned court, on behalf of Anuncio and Gorgonio Delaman, who were said to be the only heirs of Bruna Dilag, for the settlement of her intestate estate. In said case, Anuncio and Gorgonio Delaman submitted a deed of extrajudicial partition among themselves, which was approved by the court on October 1, 1958. On October 30, 1958, the original complaint in the case at bar was filed against Anuncio and Gorgonio Delaman. On November 10, 1958, the court declared Case No. 947 closed. Twelve (12) days later, or on November 22, 1958, Anuncio and Gorgonio Delaman executed a deed of sale of the properties in question in favor of Mr. and Mrs. Serrano. Hence, the complaint herein was subsequently amended to include these spouses as defendants. It further appears that Bruna Dilag and the Delaman's were represented in Cases Nos. 730 and 947 by the same lawyers for Mrs. Serrano in Case No. 265, and that the service of said lawyers in Case No. 947 was engaged by Mrs. Serrano.

In the light of the foregoing facts, We are satisfied that the Court of Appeals did not err in declaring that Mrs. Serrano had been guilty of extrinsic fraud, and cannot, accordingly, avail of the benefits of the final order issued in Case No. 265 adjudicating the properties in question to Ceferina Dilag, the same having been issued in consequence of said fraud. At any rate, the deed of conveyance by Anuncio and Gorgonio Delaman was executed twenty-three (23) days after the institution of this case against them. Accordingly, Mrs. Serrano knew, when she bought the properties in question, that the title thereto of the Delamans was contested by Hermila Cartagena and her children. Manifestly, Mrs. Serrano did not then act in good faith.

Needless to say, the final order in Case No. 730, declaring Bruna Dilag the sole heir of Ceferina Dilag, and that issued in Case No. 947, declaring Anuncio and Gorgonio Delaman sole heirs of Bruna Dilag, have no bearing upon the present claim of Hermila Cartagena and her children, except only insofar as they indicate the chain of events that explain the conveyance made by the Delamans in favor of Mrs. Serrano. Then again, the adjudication in Case No. 265 is impugned in the case at bar, not collaterally, but directly.

Hermila Cartagena and her aforementioned children have filed a motion for the appointment of a receiver during the pendency of this appeal, but, in view of the disposition thereof, We deem it unnecessary to act upon said motion, without prejudice to its reiteration, should the movants deem it fit to do so.

WHEREFORE, the decision of the Court of Appeals is hereby affirmed in toto, with costs against herein petitioner, Mrs. Paciencia Lim. Vda. de Serrano.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.
Villamor, J., took no part.

[1] It should be Aug. 5, 1948.

[2] It should be 1958.

[3] It should be Nov. 22, 1958.

4 It should be "father."

5 R. A. No. 296, Sec. 29.

6 Underscoring supplied.

7 106 Phil. 70.

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