

ESPERIDION TOLENTINO, PLAINTIFF AND APPELLANT, VS. ADELA ONGSIAKO, ET AL., DEFENDANTS AND APPELLEES.

G. R. No. L-17938. April 30, 1963

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from the order of dismissal of the Court of First Instance of Nueva Ecija, in its Civil Case No. 3197.

The plaintiff-appellant, Esperidion Tolentino, prays, in the complaint that he filed with the lower court on 20 May 1959, for the enforcement of the dissenting opinion rendered in the case entitled "Severo Domingo, et al. vs. Santos, Ongsiako, et al.," G. R. No. 32776.

The decision in said case (in favor of appellees' predecessors, and adverse to those of appellant) was promulgated by this Court on 4 December 1930, and together with the dissenting opinion, appears in Volume 55 of the Philippine Reports, starting on page 361. Unfortunately, the records of said case were lost, or destroyed, during the war.

The plaintiff-appellant claims to be the successor-in-interest of the late Severo Domingo, who died without having received a copy of the decision, and alleges that plaintiff-appellant learned of the decision only about a week before, he filed the aforementioned complaint; that the decision of the majority of the Court was erroneous and unjust; that the dissenting opinion is the correct view of the case, and should be enforced. The court below, on motion of one of the several defendants, dismissed the case, for lack of cause of action.

Not satisfied, the plaintiff-appellant interposed the present appeal, and urges that the failure of service of a copy of the decision upon the late Severo Domingo was a denial of due process, which invalidates the decision, and asks that, on equitable grounds, the present case be heard as a proceeding coram nobis.

Assuming the truth of the allegation that Severo Domingo, appellant's predecessor-in-interest, was never furnished a copy of the decision in G.R. No. 32776, it appears in the printed report of the case (55 Phil. 361) that he was represented by Atty. Ramon Diokno. Being represented by counsel, service of the decision is made upon the latter by the clerk of the Supreme Court (Sec. 250, Act 190), and not upon the client (Palad vs. Cui, 28 Phil. 44); and the un rebutted presumption is that the said official of this Court had regularly performed his duty (No. 14, Sec. 334, Act 190; Sec. 69(m), Rule 123, Rules of Court). Appellant's alleged predecessor-in-interest was not, therefore, denied due process of law .

Appellant's position that the decision was erroneous and unjust is entirely untenable, because the issue sought to be reopened is res judicata, aside from its having stood unchallenged for 30 years. The ridiculous prayer to enforce a dissenting opinion requires no discussion, it being sufficient to state that there is nothing to enforce in a dissenting opinion, since it affirms or overrules no claim, right, or obligation, and neither disposes of, nor awards, anything; it merely expresses the views, of the dissenter.

Lastly, the appellant's claim that "the lower court erred in not allowing plaintiffs-appellants' cause as a proceeding

coram nobis", is devoid of merit. The ancient common law writ of error coram nobis, now substantially obsolete even in common law jurisdictions (49 CJS p. 561), does not lie after affirmance of a judgment on writ of error or appeal (94 CJS p. 562); nor can it be grounded on facts already in issue and adjudicated on the trial (49 CJS 567). Moreover, the jurisdiction of a writ of error coram nobis lies exclusively in the court which rendered the judgment sought to be corrected (49 CJS 568), so that it should have been sought by appellants, if at all, in the Supreme Court, and not in the Court of First Instance.

In the Philippines, no court appears to have even recognized such writ, the rule in this jurisdiction being that public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final and irrevocable at some definite date fixed by law. [1]Interest rei publicae ut finis sit litium.

The order of dismissal appealed from is affirmed Costs against the appellant.

Bengzon, C. J., Baustista Angelo, Labrador, Concepcion, Barrera, Paredes, Regala and Makalintal, JJ., concur.

Padilla and Dizon, JJ., took no part.

[1]Peñalosa vs. Tuason, 22 Phil. 303; Dy Cay vs. Crossfield, 38 Phil. 251; Layda vs. Legaspi, 39 Phil. 83; Aquino vs. Dir. of Lands, 39 Phil. 850; National Bank vs. Barreto, 52 Phil. 818; People vs. Macadaeg, L-4316, 28 May 1952.

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