

EMILIA RODRIGUEZ DE HERRERA, PETITIONER, VS. PATRICK) C. CENIZA, JUDGE OF THE COURT OF FIRST INSTANCE OF MISAMIS OCCIDENTAL AND JOHN A. RODRIGUEZ, RESPONDENT.*G. R. No. L-4158. June 29, 1951*

Ponente: BAUTISTA ANGELO, J.

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This is a petition for certiorari with preliminary injunction. The injunction was granted upon petitioner filing a bond in the amount of P5,000.

On April 2, 1946, one Eduarda Arsin Vda. de Rodriguez filed in the Court of First Instance of Misamis Occidental a case against Emilia Rodriguez Vda. de Herrera and Consolacion Rodriguez de Velono seeking the annulment of the sale of two parcels of land alleged to be the conjugal property of plaintiff and her deceased husband Narciso Rodriguez (Civil Case No. 873). On September 18, 1948, John A. Rodriguez was allowed to intervene. On September 23, the court dismissed the case as against Emilia Rodriguez Vda. de Herrera in deference to the wish of plaintiff, but allowed the complaint in intervention to continue as to her. On October 18, plaintiff filed another action in the same court against John A. Rodriguez for the annulment of a deed of donation alleged to have been executed by her in favor of defendant involving the same two parcels of land (Civil Case No. 1137). As both cases cover the same properties, they were tried jointly, after which the court rendered decision dismissing the complaint in civil case No. 873 and declaring the two parcels of land to be the property of the intervenor subject to the use and usufruct in favor of plaintiff during her lifetime. On March 12, 1949, this decision became final and on the same date the intervenor filed a motion praying that he be placed in possession of the two parcels of land claiming that the usufructuary right in favor of plaintiff has already been extinguished by her death. This motion was denied. On September 22, the intervenor filed a motion praying for the appointment of three commissioners to appraise the value of the house which Emilia Rodriguez Vda. de Herrera has on one of the parcels of land, as well as the value of the land where said house is erected, in order that the movant may exercise the option to buy the house or sell the land as required by law. At the hearing of this motion, Emilia Rodriguez Vda. de Herrera was not present, but the court appointed the commissioners proposed by the movant, reserving to said Emilia Rodriguez de Herrera the right to propose her own commissioner. Instead of availing herself of this opportunity, Emilia Rodriguez de Herrera filed a motion praying for the setting aside of the order on the ground that the court can not grant the relief prayed for on the basis of a mere motion, but that the intervenor must assert his right in a separate and independent action. This motion was denied, and as a result the commissioners made the required appraisal and submitted their report to the court. On January 23, 1950, the court issued an order directing Emilia Rodriguez de Herrera to sell to the intervenor the house for the sum of P710 (which is the value fixed by the commissioners) within a period of fifteen days from notice, and in the event that she declines to sell the house, to remove it within a period of thirty days from the date she receives copy of the order. Emilia Rodriguez de Herrera moved to reconsider the order based on some legal grounds which the court granted, but later the court reiterated the same order with the admonition that her failure to remove the house would entitle the intervenor to ask for its

demolition. She was given fifty days within which to do so but before the expiration of that period, she asked for an extension hinting that she might take the case to the Supreme Court. In view of this attitude, the court on September 9, 1950, issued an order directing her to immediately remove her house after the intervenor had posted a bond in the amount of P1,500 to protect her interest pending determination of the case by the Supreme Court. Hence this petition for certiorari.

The first contention of petitioner refers to the denial by the lower court of her motion to dismiss the complaint in intervention filed by John A. Rodriguez in civil case No. 873 on the ground that the main action against petitioner over which the intervenor may legally intervene has already been dismissed. We find no merit in this contention for the reason that the order denying the motion to dismiss has already become final. Moreover, this question is interwoven with the merits of the case and the same can not now be determined because the decision on the merits has long become final. Her remedy was appeal.

The second contention refers to the portion of the decision of the lower court which declares the intervenor owner of the two parcels of land in question which petitioner claims is incorrect because said properties are conjugal in nature and only 1/2 thereof could have been donated by Eduarda Arsin Vda. de Rodriguez. We also find this claim unmeritorious for the same reason that it traverses the merits of the case and the decision on the matter has long become final. Her remedy was appeal.

Another claim of petitioner refers to the termination of the usufructuary right that was recognized by the court in favor of plaintiff Eduarda Arsin Vda. de Rodriguez over the two parcels of land in question. It is claimed that in as much as the decision has already become final when the usufruct was terminated upon the death of the usufructuary, the question as to whether the right of ownership of the intervenor has become consolidated by the death of the usufructuary can only be determined in a separate and independent action. While there is some merit in this claim, it is, however, not one of the issues involved in this case it appearing that the same has already been passed upon by the lower court when it denied the motion of the intervenor for a writ of possession based on that ground. In substance, that order has the effect of upholding the stand taken by petitioner.

The main issue to be determined here has reference to the order of the court which directs petitioner to immediately remove her house from one of the lots in litigation in view of her failure to sell the house to the intervenor and the latter to sell the land to petitioner which order petitioner claims has been issued by the lower court in excess of its jurisdiction. In this connection, it should be stated that after this petition for certiorari has been filed with this Court, petitioner filed a motion with the lower court praying that said order be not executed until petitioner shall have enough time to perfect her appeal or her petition for certiorari, and acting upon said motion the lower court reconsidered its order, apparently noticing its mistake, and in lieu thereof gave the intervenor ten days within which to exercise his option to buy the house of petitioner for the sum of P710, plus 8 per cent interest thereon, or to sell the land to petitioner for the sum of P2,600 (Annex "2" of answer). The order omitted that part which directs petitioner to remove her house from the lot in question.

We are of the opinion that the lower court exceeded its jurisdiction in entertaining the motion of the intervenor for the appointment of commissioners to appraise the value of the building and the lot wherein it is constructed in order to give said intervenor the right to exercise his option under article 361 of the Civil Code. The issue raised by the motion is one which has not been raised nor discussed in the case in chief. Nothing is said about it in the dispositive part of the decision. The order or judgment of a court is conclusive between the parties only on the matter directly adjudged, or which appears upon its face to have been so adjudged (*Asejo vs. Leonoso*, [*] 44 Off. Gaz., No. 10, p. 3807). Moreover, the declaration of ownership made by the court in favor of the intervenor is subject to the usufructuary right of the plaintiff, who was the mother of petitioner, owner of the house, and was at that time living with her in the same house. Then plaintiff died after the decision had become final. The question,

therefore, as to whether the house should be the subject of an option under article 361 of the Civil Code as a result of plaintiff's death, is a contingency which occurred long after the decision had become final and executory. As such the only remaining jurisdiction of the court is to enforce the judgment according to its own terms, to which nothing it can add nor detract. The decision merely declares the intervenor as owner of the two (2) parcels of land subject to the usufructuary right of his mother. To that the court can add nothing, for it is a well known rule that "A court, having obtained jurisdiction, retains it until the final disposition of the cause; but after final judgment or decree has been rendered and the parties dismissed, in general, the jurisdiction of the court is exhausted, and it can not take any further proceedings in the case, at least where the judgment term has ended, except with respect to the entry of the judgment or decree, or, in a proper case, its enforcement, correction, or vacation." (21 C. J. S. pp. 147-148).

While in some cases this Court has entertained the filing of motions to obtain certain relief in the main case to avoid multiplicity of action, such concession or liberality has been sanctioned merely in cases where ancillary or incidental jurisdiction of the court may be invoked upon the theory that such action is in aid of its authority over the principal matter in controversy, but not when the question is entirely divorced from it. Thus, "A grant of jurisdiction implies the necessary and usual incidental powers essential to effectuate it, and every regularly constituted court has power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction, and for the enforcement of its judgments and mandates, even though the court may thus be called upon to decide matters which would not be within its cognizance as original causes of actions." (21 C. J. S. p. 136). The incident in question is not necessary to enforce the judgment of the lower court, nor is in aid of its authority over the principal question at issue.

Wherefore, the order of the lower court dated September 9, 1950, as well as its order of October 7, 1950, are hereby set aside and rendered without effect, without costs. The writ of injunction issued is hereby declared final.

Paras C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

[*]78 Phil., 467.

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