

**MARIA BALAIS AND PETRONILO ERAYA, AS SUCCESSORS IN
INTEREST OF JUAN BALAIS AND JUANCHO BALAIS, PETITIONERS,
VS. BUENAVENTURA, ADELA, ROSITA, AND TERESITA, ALL
SURNAMED BALAIS, R...**

G.R. No. L-33924. March 18, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Pursuant to its Resolution of June 30, 1971[1], the Court of Appeals[2] certified this case to the Court. The Appellate Court declined to render a ruling, it being of the opinion that the case "involve[s] purely questions of law over which [it] [has] no jurisdiction." [3] Specifically, the questions put to the Court are twofold: (1) does the court have jurisdiction to decree a partition in an action for reconveyance? (2) may it apply the provisions of the new Civil Code in determining the successionary rights of heirs where the decedent died during the effectivity of the old Code? [4] questions undoubtedly legal in character.

In forwarding the appeal to this Court, the Court of Appeals invokes, specifically, the provisions of Section 17 of the Judiciary Act of 1948. [5] We quote pertinent parts thereof:

SEC. 17. Jurisdiction of the Supreme Court. - x x x

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The Supreme Court shall further have exclusive jurisdiction to review, revise, reverse, modify or affirm on certiorari as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in –

xxx xxx xxx

(3) All cases in which the jurisdiction of any inferior court is in issue;

(4) All other cases in which only errors or questions of law are involved: Provided, however, That if, in addition to constitutional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of certiorari; x x x

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Under the Constitution then in force: [6]

SEC. 2. x x x [T]he Supreme Court [shall have] jurisdiction to review, revise, reverse, modify, or affirm on appeal; certiorari, or writ of error, as the law or the rules of court may provide, final judgments and decrees of inferior courts in --

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) All cases in which the jurisdiction of any trial court is in issue.

(4) xxx xxx xxx

(5) All cases in which an error or question of law is involved.

an exclusive jurisdiction of the Court since affirmed under our subsequent Constitutions:

Section 5. The Supreme Court shall have the following powers:

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(2) Review and revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and decrees of inferior courts in –

(a) xxx xxx xxx

(b) xxx xxx xxx

(c) All cases in which the juris-diction of any inferior court is in issue.

(d) xxx xxx xxx

(e) All cases in which only an error or question of law is involved.[7]

Under, finally, the Judiciary Reorganization Act,[8] the Court of Appeals exercises:

(3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards, or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

We turn to the facts. We quote:

From the decision of the Court of First Instance of Leyte, the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment:

“(1) Dismissing the complaint with cost against the plaintiffs;

“(2) Maintaining its decision in toto in Civil Case No. C-811 entitled Juan Balais, et al., versus Petronilo Eraya including the dispositive portion granting to the illegitimate children, namely Buenaventura, Adela, Rosita and Teresa, all surnamed Balais, successional rights and adjudicating to them one-fourth (1/4) of the share of their deceased father Escolastico Balais which consists of one-half (1/2) of the conjugal partnership property; and

"(3) Ordering the plaintiffs to pay to the defendants the amount of P400.00 for attorney's fees and P100.00 for expenses of litigation."

plaintiffs Maria Balais and Petronilo Eraya have taken an appeal to this Court.

Giving rise to the present case are in their chronological sequence as follows:

April 22, 1964 - Juan, Maria, Buenaventura, Adela, Rosita and Teresa all surnamed Balais filed a complaint against Petronilo Eraya, in the CFI of Leyte docketed therein as Civil Case No. 811 for recovery of real property and damages (p. 13, folder of Exhibits).

August 5, 1965 - The lower court, rendered its judgment, the dispositive portion of which reads as follows:

"1. Declaring the sale of one-half (1/2) of the parcel of land more particularly described in paragraph 4 of the complaint by the widow Eutelia Masalig to the defendant Petronilo Eraya null and void and ordering the latter to execute within thirty (30) days after the judgment becomes final a deed of conveyance in favor of the plaintiffs of one-half (1/2) of the said parcel of land minus one-fourth (1/4) thereof which is hereby declared validly sold to him by the widow and, if he fails to do so within the specified period, let judgment be entered divesting the title of said Petronilo Eraya to the property and vesting it in the plaintiffs and such judgment shall have the force and effect of a conveyance executed in due form of law;

"2. Ordering that the hereditary estate of the deceased Escolastico Balais consisting of one-half (1/2) of the whole parcel of land described in paragraph 4 of the complaint be divided into two-halves, one-half (1/2) of which is hereby adjudicated to his two legitimate children Juan Balais and Maria Balais (Article 888, new Civil Code); the share of each of the plaintiffs Buenaventura, Adela, Rosita and Teresa, all surnamed Balais, shall be equal to two-fifths (2/5) of the share of either Juan Balais or Maria Balais, provided that their total shares in this particular case shall not exceed one-half (1/2) of the free portion after the share of Eutelia Masalig is fully satisfied (Article 895, paragraph 3, new Civil Code) which share of the widow shall be equal to the share of each of the legitimate children (Article 999, Civil Code); otherwise stated, the hereditary estate of the deceased which consist of one-half (1/2) of the whole parcel of land described in the complaint shall be divided into four (4) parts, two (2) parts of which shall belong to the two (2) legitimate children Juan Balais and Maria Balais, one (1) part to the widow Eutelia Masalig which is hereby deemed included in the sale of the property to the defendant Petronilo Eraya and the remaining one (1) part to the illegitimate children Buenaventura, Adela, Rosita and Teresa, all surnamed Balais.

"3. Ordering the defendant to render an accounting of the value of the products of the shares of the plaintiffs as above indicated from the time of the filing of the complaint, and to deliver the share to the plaintiffs together with their shares; and

"4. To pay the costs of the suit."

March 28, 1966 - The lower court issued an order for the issuance of a writ of execution of the aforesaid decision.

May 12, 1966 - Defendant Eraya filed a motion to set aside the order of execution for the reasons therein stated (pp. 16-19, folder of Exhibits).

June 27, 1966 - The aforesaid motion to set aside order for the issuance of writ was denied (p. 10, R.A.). It will be noted that the plaintiffs' cause in Civil Case No. 811 was for the recovery of property - and not for partition of an estate. Despite this, however, the lower court proceeded to distribute the estate of the late Escolastico Balais.

February 23, 1967 - Maria and Juan Balais and Petronilo Eraya filed a complaint in the CFI of Leyte, Civil Case No. C-893 against defendants for the annulment of that portion of the judgment rendered in Civil Case No. 811 awarding to the latter who are illegitimate children of the late Escolastico Balais (1/4) of the hereditary estate of their deceased father.

March 10, 1967 - Buenaventura Balais and his co-defendants filed through counsel an answer with counterclaim whereby they sought for the dismissal of the aforesaid complaint.

When the case was called for trial, the parties agreed to submit the case for decision based on the pleadings inasmuch as the defendants have admitted the material allegations of plaintiffs' complaint, as well as the latter's documentary evidence.

July 29, 1967 - The lower court rendered a decision dismissing plaintiffs' complaint (pp. 13-26, R.A.)[9]

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As we have indicated, the jurisdiction of the trial court[10] to order the partition and distribution of the estate in the course of an action for recovery of real property is contested. Apart from such a jurisdictional challenge, the trial court is held to be in error for applying the provisions of the new Civil Code, in particular, Articles 887 and 895 thereof, granting to so-called spurious children the right to a share in the estate of the deceased who perished in 1946 and consequently, prior to the effectivity of the new Code.[11]

Jurisdiction, in general, is either one over the nature of the action, over the subject matter, over the person of the defendants (not, incidentally, put to question here), or over the issues framed in the pleadings.

There is no doubt that as far as the instant case is concerned, the Court of First Instance is vested with the jurisdiction to try either case, whether for reconveyance or partition. Under the judiciary law then in force, the Judiciary Act of 1948, the Court of First Instance exercises original jurisdiction:

(b)

In all civil actions which involve the title to or possession of real property or any interest therein, or the legality of any tax, impost or assessment, except actions of forcible entry into and detainer of lands or buildings original jurisdiction of which is conferred by this Act upon city and municipal courts;[12]

What is assailed however is the competency of the lower court to distribute the estate on a simple complaint for reconveyance. In other words, what is disputed is the jurisdiction of the court to pass upon issues not raised in the pleadings.

There are instances, and upon the acquiescence of the parties, when issues not in fact alleged may be heard by the court. Section 5, of Rule 10, of the Rules of Court, provides, in part, as follows:

x x x When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects, as if they had been raised in the pleadings. x x x[13]

In such a case, amendments may be had on the pleadings:

x x x as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; x x x[14]

But failure to amend, the Rule further tells us, "does not effect the result of the trial of these issues." [15]

The court, in that event, acquires jurisdiction over such issues.

It may likewise be that although the court lacks the jurisdiction, it acquires one subsequently as when the defendant invokes it, say, by asking for affirmative relief.[16] In that case, jurisdiction by estoppel arises.[17]

Noteworthy is the fact that in the case at bar, in spite of the broad challenge the appellants present against the jurisdiction of the trial court to order the distribution of the property, they, in reality, question only that part of the decision awarding a one-fourth part of the property to the illegitimate children of the deceased, upon the ground that under the old Civil Code -- the statute in effect at the time of the death of the deceased in 1946 -- illegitimate children other than natural enjoyed no successory rights. Otherwise, they do not contest the delivery of the estate to the deceased's widow or to themselves in the proportions decreed by the court. In that respect, they do not deny the court's jurisdiction to order partition. In their complaint,[18] they therefore prayed:

WHEREFORE, premises considered, plaintiffs, thru their undersigned counsel to this Honorable Court respectfully pray: (a) That the plaintiffs be declared the absolute owners of the portion of 1/4 of the intestate estate of Escolastico Balais now possessed under claim of ownership by herein defendants; That the part of the decision

in Civil Case No. C-811, adjudicating one-fourth (1/4) of the intestate estate of the illegitimate children of Escolastico Balais be declared null and void for having been rendered without jurisdiction and being contrary to law, particularly Art. 2263 of the New Civil Code; (c) That defendants be sentenced to pay the amount of P200.00 for every year they remain in possession of the property subject of this suit; P500.00 as attorney's fees and P300.00 for expenses of litigation and costs; and (d) That the plaintiffs be granted whatever remedy they may be entitled in equity and justice.[19]

The appellants must therefore be considered to have accepted the lower court's jurisdiction. To reject that jurisdiction with respect to the part of the decision unfavorable to them and to accept it as regards those portions favorable to them is to assume inconsistent stances. Either the court has jurisdiction or it does not. Estoppel is a bar against any claims of lack of jurisdiction.

This is not to say, however, that the trial court -- in both suits, the original action for reconveyance and the suit for annulment of judgment -- did not err in granting in favor of the appellees a share in the estate pursuant to Article 895 of the Civil Code,[20] the decedent having passed away during the regime of the Civil Code of 1889 under which bastards, in vulgar parlance, were entitled to no share in the estate. In *Uson v. Del Rosario*,[21] we said that the rights given to adulterous children under the new Civil Code have no retroactive application. Thus:

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There is no merit in this claim. Article 2253 above referred to provides indeed that rights which are declared for the first time shall have retroactive effect even though the event which gave rise to them may have occurred under the former legislation, but this is so only when the new rights do not prejudice any vested or acquired right of the same origin. Thus, said article provides that "if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not prejudice or impair any vested or acquired right, of the same origin." As already stated in the early part of this decision, the right of ownership of Maria Uson over the lands in question became vested in 1945 upon the death of her late husband and this is so because of the imperative provision of the law which commands that the rights to succession are transmitted from the moment of death (Article 657, old Civil Code). The new right recognized by the new Civil Code in favor of the illegitimate children of the deceased cannot, therefore, be asserted to the impairment of the vested right of Maria Uson over the lands in dispute.[22]

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But as we stated, the error of the court notwithstanding, the case is a closed chapter, the decision having been rendered by a court of competent jurisdiction. And, as noted by the trial court itself, it is a case that has become final and executory, and in fact, in the process of execution.[23] A decision, no matter how erroneous, becomes the law of the case between the parties upon attaining finality.[24]

WHEREFORE, the appeal is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Rollo, 48-53.

[2] Martin, Ruperto, J., Solidum, Arsenio and Reyes, Juan, JJ.

[3] Id., 52.

[4] Id.

[5] Rep. Act No. 296.

[6] CONST. (1935), art. VIII, sec. 2.

[7] CONST. (1973), art. X, sec. 5(2); CONST. (1987), art. VIII, sec. 5(2).

[8] Batas Blg. 129, sec. 9(3).

[9] Rollo, id., 48-52.

[10] Court of First Instance of Leyte, Branch VI, Garciano, Honorato, Presiding Judge.

[11] The new Civil Code took effect on August 30, 1950.

[12] Rep. Act No. 296, supra, sec. 44(b). Under Batas Blg. 129, sec. 19(2), Regional Trial Courts exercise exclusive original jurisdiction: "(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original action over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts."

[13] RULES OF COURT, Rule 10, sec. 5.

[14] Supra.

[15] Supra.

[16] Tijam v. Sibonghanoy, No. L-21450, April 15, 1968, 23 SCRA 29 (1968).

[17] Supra.

[18] Rollo, id., 10; Record on Appeal, 2-8.

[19] Id., 7-8.

[20] Under this provision, "[T]he legitime of an illegitimate child who is neither an acknowledged natural, nor a natural child by legal fiction, shall be equal in every case to four-fifths of the legitime of an acknowledged natural child." See also CIVIL CODE, art. 983.

[21] 92 Phil. 530 (1953).

[22] Supra, 533-534.

[23] Rollo, id., 51.

[24] While a decision rendered without jurisdiction may be assailed by a direct or collateral attack, that principle is not applicable herein, estoppel having set in.

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