

GREGORIO TARCA AND ROPOLFO TARCA CASTRO, PLAINTIFFS AND APPELLANTS, VS. ANGELES CASON VDA. DE CARRETERO, DEFENDANT AND APPELLEE.

G.R. No. L-8222. June 25, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiffs filed in the Court of First Instance of Pangasinan an action seeking to annul the judgment rendered in a registration case (G.L.R.O. Record No. 54794) which was jointly heard with another case concerning recovery of two of the lots that were the subject of registration (Civil Case No. 8853), on the ground that said judgment was obtained through fraud. Defendant filed a motion to dismiss which, as amended, disputed the sufficiency of the complaint on three grounds; (a) that the court had no jurisdiction of the person of defendant; (b) that the cause of action was barred by a prior judgment; and (c) that the complaint states no cause of action.

After plaintiffs had filed their objection to said motion and defendant had replied, the court found the motion to dismiss well taken on the ground that the alleged fraud on which the cause of action of plaintiffs is predicated, even if committed, is not extrinsic or collateral to the issues involved in the former case, but intrinsic or one which should have been raised therein because it was part and parcel of the defense that the plaintiffs had set up to protect their interest. Accordingly, the court dismissed the case without costs.

The case was originally taken to the Court of Appeals but it was later certified to this Court under section 17, subsection 6 of Republic Act No. 296, because it merely involves questions of law.

The facts which, according to the complaint, constitute the alleged fraud on which plaintiffs base their cause of action to annul the judgment rendered in the former case, are: (1) the concealment by defendant of the true traces of an old sugar mill and of the house of their predecessors-in-interest by indicating some big stones within the perimeter of lot No. 8 is the ocular inspection conducted by the court, because the truth is that said traces are on the western side of lot 8, located in another property belonging to defendant; (2) the refusal of the trial judge to conduct an ocular inspection of the other side of Cabatuan creek to see for himself the location of the true traces of said sugar mill and house without any justifiable reason; and (3) the mysterious disappearance of the record of the proceedings concerning the ocular inspection made by the trial judge as above adverted to.

But it appears on the very face of the complaint that those facts, which allegedly constitute the fraud on which the action of plaintiffs is predicated, are matters which have transpired in the course of the ocular inspection made by the trial judge in the former case and which said trial judge had already considered and passed upon in his decision. It even appears that when the ocular inspection was made, both parties were present with their counsel, and the objection of plaintiffs to the indication of the traces or remains of the old sugar mill and house determinative of defendant's possession has been, duly noted by the trial judge only that the same was not given due consideration by him. And it likewise appears that these matters have also been taken up by plaintiffs in connection with their appeal to the Court of Appeals but that said court did not decide them in their favor but

instead affirmed the findings of the trial court. It is therefore evident that the alleged fraud now advanced by plaintiffs predicated on those facts is not extrinsic or collateral but intrinsic in the sense that they have not only been raised but were the subject of adjudication by both the former court and the Court of Appeals and as such it cannot be considered as sufficient basis for annulling the judgment rendered in the former case.

"There can be no question as to the right of any person adversely affected by a judgment, to maintain an action to enjoin its enforcement, and to have it declared a nullity, on the ground of fraud and collusion practiced in the very matter of obtaining the judgment, when such fraud is extrinsic or collateral to the matters involved in the issues raised at the trial which resulted in such judgment; and fraudulent collusion between an administrator and a third person resulting in an order or judgment where by an interested person is unjustly deprived of his rights in, or to the estate under administration, has always been recognized as a sufficient ground for the grant of relief from the order or judgment thus fraudulently procured." (Anuran vs. Aquino and Ortiz, 38 Phil., 29)

"Fraud to be ground for nullity of a judgment must be extrinsic to the litigations. Were not this the rule there would be no end to litigation, perjury being of such common occurrence in trials. In fact, under the opposite rule, the losing party could attack the judgment at any time by attributing imaginary false hood to his adversary's proofs. But the settled law is that judicial determination however erroneous of matters brought within the court's jurisdiction cannot be invalidated in another proceeding. It is the business of a party to meet and repel his opponent's perjured evidence." (Almeda vs. Cruz, 47 Off. Gaz., No. 3, 1179, 1180.)

It is true, as plaintiffs claim, that when the former case was appealed to the Court of Appeals they discovered that the record of the proceedings concerning the ocular inspection made by the trial court has "mysteriously" disappeared and for that reason the Court of Appeals could not act properly on the issues raised concerning said ocular inspection, but why did not plaintiffs take the necessary steps in order that the record of said ocular inspection may be located or reconstituted as required by law? It is preposterous to contend that such disappearance is the result of a conspiracy between the trial judge and the defendant. In any event, it was the concern of plaintiffs to have the matters investigated in due time, and this they failed to do. But this circumstance alone cannot certainly be the basis of annulment of a judgment duly rendered and affirmed by the appellate court and which has become final long ago.

Wherefore, the order appealed from is affirmed, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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