

J.M. TUASON & CO., INC., PETITIONER, VS. HON. GUILLERMO E. TORRES, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH VIII, FLORENCIO DEUDOR, ANIANA DEUDOR, PEDRO DEUDOR AND ...

G.R. No. L-24559. July 22, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition for certiorari and prohibition with a prayer for preliminary injunction filed on May 24, 1965 by J.M. Tuason & Co., Inc. against Honorable Guillermo E. Torres, Presiding Judge of the Court of First Instance of Rizal, Branch VIII, and Florencio Deudor, Aniana Deudor, Pedro Deudor and Maria Deudor, seeking the following relief:

"WHEREFORE, it is respectfully prayed that:

1. Pending this proceeding and upon the filing of a bond by your petitioner, a writ of preliminary injunction be issued enjoining the respondent court from proceeding with and acting in Civil Case No. 8080 aforesaid;
2. After hearing, the order of the respondent court dated 23 January 1965 be annulled and set aside and consequently that Civil Case No. 8080 be dismissed;
3. All the orders hereto attached as Annexes "G", "K", "K-1" to "K-32", "L-2" and "P" be annulled and set aside;
4. The respondent court be permanently enjoined from taking cognizance of Civil Case No. 8080 and proceeding with the said case;
5. Petitioner be granted such other relief and remedy as may be just and equitable in the premises.

"Manila, Philippines, May 13, 1965."[1]

The petition alleges that the petitioner is the absolute owner of several parcels of land with an area of fifty (50) quiñones situated at Quezon City, included in and covered by Transfer Certificates of Title Nos. 37685, 37686, 37678, 37679, 37680 and 37683 of the Register of Deeds of Quezon City issued in its name; that the petitioner and its predecessors have been in continuous possession thereof since 1914 up to the present; that on April 10, 1953, the Court of First Instance of Rizal, Quezon City, Branch IV, in Civil Case Nos. Q-135, (Florencio Deudor, et al. vs. J.M. Tuason & Co., Inc.), Q-139 (J.M. Tuason & Co., Inc. vs. Agustin de Torres), Q-177 (Agripino Pascual vs. J.M. Tuason & Co., Inc.), and Q-186 (Macaria Fulgencio vs. J.M. Tuason & Co., Inc.) rendered a decision declaring the petitioner the absolute owner of the parcels of land with an area of fifty (50) quiñones more or less involved in said cases and covered by the said titles; that likewise in a compromise agreement dated 16 March 1953 entered into between petitioner and Gregorio Araneta, Inc., on the one hand, and the respondents surnamed Deudor on the other, and duly approved by the Court in its decision in the aforementioned civil cases,

the respondents surnamed Deudor, after admitting that they were "under a mistaken impression of the nature of their rights in said property," and after examining the various documents evidencing the ownership to the said property, voluntarily and unequivocally recognized the "complete, absolute and indefeasible title in fee simple of the OWNERS (J.M. Tuason & Co., Inc.) over said property, and hereby renounce, cede and quitclaim unto and in favor of the OWNERS (J.M. Tuason & Co., Inc.) any right, title or interest of whatever nature that they may have had in the past, or may now or may have in and to the said property in the future"; that the Supreme Court in its decision promulgated on 30 May 1961, in G.R. NO. L-13768 entitled "Florencio Deudor, et al. vs. J.M. Tuason & Co., Inc., et al.", upheld the validity of the said decision (Annex "A") and compromise agreement (Annex "B"); that on 16 February 1962, or nine (9) years after the compromise agreement (Annex "B") was executed and the decision (Annex "A") was rendered, the same respondents surnamed Deudor filed a complaint to annul and rescind the compromise agreement (Annex "B") before the Court of First Instance of Manila and docketed therein as Civil Case No. 49657 entitled "Florencio Deudor, et al. vs. J.M. Tuason & Co., Inc., et al."; that the parcels of land involved in this Civil Case No. 49657 are the same fifty (50) quiñones involved in the aforementioned Civil Case Nos. Q-135, Q-139, Q-174, Q-177 and Q-186; that the Court of First Instance of Manila in an order dated 25 March 1962 dismissed said Civil Case No. 49657 on the ground of no cause of action and on the ground of improper venue; that the same respondents surnamed Deudor appealed the said order to the Supreme Court and the appeal was docketed as G.R. NO. L-20105; that the Supreme Court on October 31, 1963 rendered a decision in said G.R. NO. L-20105 sustaining the dismissal of Civil Case No. 49657 by the Court of First Instance of Manila on the grounds of no cause of action and improper venue and the Supreme Court further ruled that the complaint filed by the same respondents surnamed Deudor over the fifty (50) quiñones, subject matter of the compromise agreement in Civil Case Nos. Q-135, etc., is already barred by the decision in G.R. NO. L-13768; that after the compromise agreement was rescinded insofar as the obligation of the petitioner and Gregorio Araneta, Inc., to pay the respondents surnamed Deudor the amounts stipulated in the compromise agreement is concerned, the petitioner herein obtained the possession of the fifty (50) quiñones occupied by squatters through the filing of various ejectment suits; that in spite of the foregoing two (2) decisions of the Supreme Court, the same respondents surnamed Deudor assisted by the same counsel, filed an action against the same defendant who is now the petitioner in this case for the same cause of action over the same parcels of land involved in Civil Case No. 49657 particularly 29.5 quiñones thereof; that the complaint which is the same as that of Civil Case No. 49657 was filed before the Court of First Instance of Rizal, Branch VIII, presided by the respondent Judge and docketed therein as Civil Case No. 8080 and that said complaint principally seeks to annul the decision rendered by the Court of First Instance of Rizal, Quezon City Branch IV; that this is the third case involving the same cause of action and subject matter filed by the respondents surnamed Deudor against the same petitioner; that immediately after the filing of Civil Case No. 8080 and more particularly on 19 March 1964, the respondent court issued an order restraining the enforcement of the decision dated 10 April 1953 rendered by the Court of First Instance of Rizal, Quezon City Branch IV, and restraining the petitioner and its agents from ejecting or threatening to eject the respondents surnamed Deudor and all persons deriving rights from said respondents; that on 2 April 1964, the petitioner filed a Motion to Dismiss Civil Case No. 8080 on the following grounds:

- (a) That the complaint states no cause of action;
- (b) That the cause of action is barred by prior judgment;
- (c) That the cause of action is barred by the statute of limitations; and
- (d) That there is non-joinder of an indispensable party in the person of Gregorio Araneta, Inc.;

that on 28 October 1964, and prior to the resolution of the petitioner's Motion to Dismiss, the petitioner filed a pleading entitled "COMMENTS AND/OR DISCUSSION, ETC.", challenging the jurisdiction of the respondent

court over the subject matter of the action or suit in Civil Case No. 8080, citing as authority therefor, the decision of the Supreme Court in G.R. NO. L-16252 entitled "Rosario Mas versus Elisa Dumara-og, et al.", promulgated on 29 September 1964; that on 23 January 1965, the respondent Judge issued a one-paragraph order denying the aforesaid motion to dismiss; that on 23 February 1965, the petitioner filed its answer to the complaint of the respondent surnamed Deudor; that from and after the filing of the complaint docketed as Civil Case No. 8080 up to the present, the respondent court in violation of and contrary to the provisions of Rule 12, Section 2, of the Rules of Court, has issued and continues to issue orders ex-parte granting various complaints in intervention filed by persons who do not have any interest whatsoever in the subject matter of the litigation and against whom final and executory judgments for eviction have been rendered by the Court of First Instance of Rizal, Quezon City Branches IV and V and at the same time has issued and continues to issue orders ex-parte restraining the enforcement of the said final and executory judgments without requiring the filing of bonds as directed by Rule 58 of the Rules of Court; that under date of 8 February 1965 the respondents surnamed Deudor filed a Petition to Allow the Director of Lands and his duly authorized representative and/ or any private land surveyor to survey and relocate the boundaries of the land in litigation, to which petition the petitioner filed, its corresponding opposition; that notwithstanding the opposition of the petitioner and the fact that the court has no jurisdiction the respondent court issued an order on 20 February 1965 in Civil Case No. 8080 authorizing the respondents surnamed Deudor "to request the Director of Lands and/or any private surveyor to make the necessary relocation and survey of the parcels of land involved x x x and to employ the services of a duly licensed surveyor to make the necessary survey and relocation"; that pursuant to said order, the respondents surnamed Deudor are threatening or about to cause the survey and relocation of the parcels of land involved in said Civil Case No. 8080 in violation of and to the great prejudice of the rights of petitioner as owners of the land and of its buyers; that 80% more or less of the 29.5 quiñones involved in Civil Case No. 8080 have already been sold by petitioner to third persons for valuable consideration and for which certificates of title have already been issued in their names; that under date of 15 February 1965, certain persons namely, Cirilo del Rosario, Eustaquio Alquiros, Donato Fajardo, Rosario de Torres, Tomas dela Cruz and Hilario Andaya, claiming to have rights and interests over an area of 9.5 quiñones indicated in orange shade of Annex "A" of their motion and which does not form part of the 29.5 quiñones involved in Civil Case No. 8080 filed an Amended Motion for Intervention in said Civil Case No. 8080; that this Amended Motion for Intervention was opposed by the petitioner as well as by the respondents surnamed Deudor on the ground that the aforementioned persons do not have any interest in the subject matter of the litigation; that on the day following the filing of the said Amended Motion for Intervention and more particularly on 16 February 1965, the respondent Judge without any notice to petitioner and without requiring the filing of a bond, issued an order ex-parte enjoining the petitioner, its agents or representatives from "selling or in any way disposing of any portion of the x x x lands" claimed by the said intervenors Cirilo del Rosario, Eustaquio Alquiros, Donato Fajardo, Rosario de Torres, Tomas dela Cruz, and Hilario Andaya, and indicated in orange shade of Annex "A" of their motion, although said parcels of land are not involved in Civil Case No. 8080; that by reason of the issuance of the foregoing illegal orders by the respondent judge, and of the use of force, violence and intimidation employed by the respondents surnamed Deudor, including Cirilo del Rosario, Eustaquio Alquiros, Donato Fajardo, Rosario de Torres, Tomas dela Cruz and Hilario Andaya, together with the squatters in the area and against whom final and executory judgments for their eviction have been rendered by the Court of First Instance of Quezon City, and in whose favor injunctions have been issued by the respondent court, the petitioner and its managing partner, Gregorio Araneta, Inc., have been prevented from entering, developing and subdividing the land and from maintaining and repairing the existing roads in the subdivision to the great prejudice not only of the petitioner but also of those buyers residing therein; that buyers of lots from the petitioner have likewise been prevented from constructing their homes and/or continuing with the construction of their homes already began prior to the issuance of the orders of injunction; that unless and until respondents and their

agents are restrained the petitioner will suffer substantial and irreparable injury in its subdivision business; that the respondent court in issuing all the foregoing orders has acted without or in excess of its jurisdiction, or with grave abuse of discretion; that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law; and that the petitioner is ready, willing and able to post a bond in such amount as may be fixed by the Supreme Court for damages in case the petitioner is finally adjudged not to be entitled to the relief prayed for.[2]

On June 11, 1965, the respondent judge was enjoined from further proceeding with, and acting in, Civil Case No. 8080.[3]

After the filing of the petition with this Court separate motions for intervention were filed by the following persons: Rafael Ramos, Antonio Estabillo and Pedro Deudor, Jose Yolo, Jose C. de Jesus, Maria de Vera, Ricardo Remigio, Martin Garcia, Lydia Jaba, Mariano Ramirez Locsin, Teresa Santos, Correa S. Torres, Luis C. Flores, Dominador Dacanay, Pelagio Balonan, Juan Lubiano, Pedro Licardo, Marcelo Licardo, Martin de Jesus, Raymundo Familara, Simeon F. Monzon, Leonardo Ramos, Leonardo Alim, Teresita Jose, and Candido Cruz, Prospero Feliciano, Teresita R. Cruz and Edgardo Espiritu, Marcelo Profeta, Beatriz Manalo, Cirilo del Rosario, Donato Fajardo, Rosario de Torres, Tomas de la Cruz, Manuel Ruiz, Ceferina D. Valeriano, Xavier Apostol, Leopoldo Francisco, Arsenio de Leon and Bienvenido Zaragoza.[4]

The motion for intervention of Rafael Ramos, Antonio Estabillo and Pedro Deudor was granted on August 2, 1965.[5] The motions for intervention of Jose Yolo, Jose C. de Jesus, Maria de Vera, Ricardo Remigio, Martin Garcia, Lydia Jaba, Mariano Ramirez Locsin, Teresa Santos, Correa S. Torres, Luis C. Flores, Dominador Dacanay, Pelagio Balonan, Juan Lubiano, Pedro Licardo, Marcelo Licardo, Martin de Jesus, Raymundo Familara, Simeon F. Monzon, Leonardo Ramos, Leonardo Alim, Teresita Jose, Candido Cruz, Prospero Feliciano, Teresita R. Cruz, Edgardo Espiritu, Marcelo Profeta and Beatriz Manalo, Cirilo del Rosario, Donato Fajardo, Rosario de Torres and Tomas de la Cruz were granted with the qualification that only one of them shall prosecute the intervention in the Court for and in behalf of all, pursuant to Rule 5, Section 3 of the Rules of Court.[6] The motions for intervention of Ceferina Valeriano, Xavier Apostol, Manuel Ruiz, Leopoldo Francisco, Arsenio de Leon, and Bienvenido Zaragoza were denied by this Court.[7]

The intervenors alleged that the parcels of land owned by them and in their actual physical possession were portions and/or parts of the entire parcel of agricultural land consisting of fifty (50) quiñones situated in the Barrio of Tatalon, Quezon City (formerly part of Rizal Province) embraced in and covered by a possessory information title duly registered under the Spanish Mortgage Law in the name of the late Telesforo Deudor; that the said agricultural land had always been in the actual physical possession of the original owners, the late Telesforo Deudor and his successors-in-interest; that the herein intervenors constructed their respective houses on the lots sold to them by the parties collectively designated as Florencio Deudor, et al.; that the intervenors, after conducting a thorough investigation and inquiry, have discovered for the first time, after a decision had been rendered by the Hon. Eulogio Mencias on January 18, 1965 in the case of Victor Benin, et al. vs. Mariano Severo Tuason y dela Paz, et al., Civil Case No. 3621 and in Civil Cases Nos. 3622 and 3623; that the land purchased by them from the parties collectively designated as Deudors, et al., had been illegally usurped by the petitioner herein, J.M. Tuason & Co., Inc., and/or its predecessors-in-interest, Mariano Severo Tuason y dela Paz, et al., and that the said land claimed by J.M. Tuason & Co., Inc., and its predecessors-in-interest had been fraudulently included in paragraph 1 (known as the Sta. Mesa Estate) covered by Original Certificate of Title No. 735 of the land records of the province of Rizal in the registration case wherein the then applicants were Mariano Severo Tuason y dela Paz, Teresa Eriberta Tuason y dela Paz, Juan Jose Tuason y dela Paz, Demetrio Asuncion Tuason y dela Paz and Augusto Huberto Tuason y dela Paz, before the Court of Land Registration in case No. 7681; that a portion of the San Francisco del Monte Estate LRC No. 3563, has been illegally usurped by Original Certificate of Title No. 735

contrary to the warning of the Chief of the Surveyor's Division GLRO; that the registrants mentioned in LRC No. 7681 whose names now appear in Original Certificate of Title No. 735 of the Province of Rizal applied for the registration of two (2) parcels of land known as the Santa Mesa and Diliman Estates situated in the Municipalities of Caloocan and San Juan del Monte, Province of Rizal; that the application in LRC No. 7681 containing the boundaries, technical description and area of Parcel 1 (Santa Mesa Estate) and Parcel 2 (Diliman Estate) were duly published in the Official Gazette; that the technical description, boundaries and area of Parcel 1 (Sta. Mesa Estate) as well as of Parcel 2 (Diliman Estate) in LRC No. 7681 were amended and altered during the course of the proceedings; that the amendments and alterations were never published or readvertised; that on March 7, 1914 a decision was rendered in LRC No. 7681 based on the amended plan; that pursuant to the decision dated March 7, 1914 a Decree of Registration was issued on July 6, 1914 adjudicating to the applicants Mariano Severo Tuason y dela Paz, Demetrio Asuncion Tuason y dela Paz, and Augusto Huberto Tuason y dela Paz, the two parcels of land known as the Sta. Mesa and Diliman Estates applied for registration; that the decision dated March 7, 1914 in LRC No. 7681 is null and void because the court had no jurisdiction to render a decision for lack of publication; that the Decree No. 17431 issued in LRC No. 7681, is likewise null and void from the beginning because of lack of publication and because the boundaries, technical description and area in the decree are different from and not identical with, the boundaries, technical description and area in the application as published in the Official Gazette; that the areas of Parcel 1 and Parcel 2 adjudicated by said Decree No. 17431 are bigger than the areas of Parcel 1 and Parcel 2 in the application as originally published in the Official Gazette; that Original Certificate of Title No. 735 of the Office of the Register of Deeds of Rizal particularly that referring to Parcel 1 known as the Santa Mesa Estate and Parcel 2 known as Diliman Estate, are null and void from the beginning as the Court that issued the decree of registration had never acquired jurisdiction over the persons interested in the subject matter of the registration; that the Deudors and others had not been notified of such proceedings in LRC No. 7681 although the applicants knew or could have known by the exercise of necessary diligence the names and addresses of the herein claimants (Deudors) and their predecessors in interest who were then and up to now the owners, possessors and cultivators of the land hereinabove described; and that during, before and even after the issuance of Original Certificate of Title No. 735 of the Register of Deeds of Rizal, the herein petitioner had tacitly recognized the ownership of the Deudors over their respective lands because said petitioner had never disturbed the possession and cultivation of the land by the plaintiffs until the year 1951; that on the basis of all the foregoing, the herein petitioner J.M. Tuason & Co., Inc., has absolutely no cause of action to file and bring this original special action for certiorari and prohibition with preliminary injunction, for such proceeding has no leg upon which to stand.[8]

According to the petitioner, the respondent court acted without or in excess of its jurisdiction thus:

“a) x x x in not dismissing Civil Case No. 8080 inspite of the fact that it has no jurisdiction over the nature of the action and that this same Civil Case No. 8080 between the same parties for the same cause of action has been twice litigated and twice decided by the Supreme Court adversely against the respondents surnamed Deudor on the ground that the respondents surnamed Deudor have no cause of action against the petitioner and that the cause of action, if any, alleged in Civil Case No. 8080 is already barred by the judgments of the Supreme Court in L-13768 and L-20105;

“b) That the respondent court acted without or in excess of its jurisdiction, or with grave abuse of discretion, in enjoining the execution of final judgments rendered by another branch of the Court of First Instance of Rizal, Quezon City Branches IV and V, which judgments have been affirmed either by the Supreme Court or by the Court of Appeals and which have long since become final and executory;

“c) That the respondent court acted without or in excess of its jurisdiction, in issuing restraining orders against your petitioner and the Sheriff of Quezon City in favor of intervenors who admittedly have no interest whatsoever in the subject matter of Civil Case No. 8080;

“d) That the respondent court acted without or in excess of its jurisdiction, or with grave abuse of discretion in allowing the intervention of parties who have no interest on the land subject matter of Civil Case No. 8080.”[9]

The respondents denied the allegations of the petition and alleged that:

“(1) Civil Case No. 8080 is an action for 'Restitution'; 'Nullity of Title'; 'Nullity of Decision and Stay in the Execution of the Decision in Q-135'; 'Recovery of possession' 'Accounting' and 'Damages,' while the case involved in L-13768 and L-20105 is an action for RESCISSION of the Compromise Agree-ment.

“(2) The causes of action in Civil Case No. 8080 are now litigated for the FIRST TIME. The action for 'restitution,' nullity of title, enjoining the enforcement of the Decision have been presented for the first time in Civil Case No. 8080 as a result of the rescission of the Compromise Agreement mentioned in L-13768 and L-20105 previously decided by this Honorable Tribunal.

“(3) The causes of action in Civil Case No. 8080 are totally different from the causes of action involved in the cases covered by the Supreme Court in L-13768 and L-20105.

“(4) (b) The Respondents deny the truth of the misleading allegations in the Petitioner's Paragraph 4(b) that the Respondent Court is enjoining the execution of final judgments rendered by Branches IV and V of the Court of First Instance of the Province of Rizal. The Petitioner's allegations have no foundation in fact. It is misleading. The Restraining Order dated March 19, 1964 of the Respondent Court merely enjoins the execution of the judgment in Civil Case No. Q-135 of Branch IV which had been rescinded or annulled as a result of the rescission of the Compromise Agreement which was the subject of said Decision in Q-135. As a matter of fact, no execution can be issued on the 'judgment by consent' in Q-135 of Branch IV, as the Compromise Agreement and the Decision have already been rescinded. The rescission of the Compromise Agreement is also recognized by the Honorable Supreme Court in G.R. No. L-16836 entitled 'J. M. Tuason & Co., Inc. vs. B. Sanvictores' (January 20, 1962).

“(4) (c) The Respondents deny the Petitioner's allegations contained in Paragraph 4(c) of the Petition that the Respondent Court acted without or in excess of its jurisdiction in issuing the restraining orders against the Petitioner and the Sheriff of Quezon City in favor of the INTERVENORS in Civil Case No. 8080. The Respondents deny the misleading and untruthful allegations of Petitioner's allegations in Paragraph 4(c) that the intervenors have no interest whatsoever in Civil Case No. 8080. Petition-er failed to include in his Petition the Motions and/or Complaints in Intervention of the intervenors in accordance with Sections 1 and 2, Rule 65 of the Rules of Court which will show this Honorable Court whether or not these intervenors have rights involved in Civil Case No. 8080. The Petitioner's allegations that the intervenors admittedly have no interest is gratuitous and have no foundation in fact. The truth of the Petitioner's allegations can only be verified by this Honorable Court by reading the intervenor's Motion and/or Complaints in Intervention which the Petitioner conveniently omitted to include in the Petition.

“(4) (d) The Respondents deny the Petitioner's allegations contained in Paragraph 4(d) of the Petition that the Respondent Court acted without or in excess of its jurisdiction or with grave abuse of its discretion in allowing the intervenors to intervene in Civil Case No. 8080. The Petitioner's allegations that the intervenors have no interest is gratuitous and have no foundation in fact. The interest of the intervenors can only be shown to this Honorable Court by reading the Motions and/or Complaints in Intervention which were conveniently omitted in the Petition.”[10]

The basic issue in this case is whether or not the complaint docketed as Civil Case No. 8080 of the Court of First Instance of Rizal filed by the respondents surnamed Deudor is barred by the judgments of this Court in G.R. Nos. L-13768 and in L-20105.[11]

The petitioner contends that the cause of action and subject matter in Civil Case No. 8080 had been twice litigated and had been decided twice by this Court in G.R. Nos. L-13768 and L-20105. The respondents argue that Civil

Case No. 8080 is an action for restitution, nullity of title, nullity of decision and stay in the execution of the decision in Q-135, recovery of possession, accounting and damages while the cause of action involved in L-13768 and L-20105 is for the rescission of the compromise agreement.

In G.R. NO. L-13768, this Court affirmed the orders of the Court of First Instance of Rizal dated February 28, 1957 and January 10, 1958 rescinding the compromise agreement entered into by the petitioner J.M. Tuason and the respondents, all surnamed Deudor in so far as the obligation of the defendant and Gre-gorio Araneta, Inc. to make further payments to the Deudors is concerned.[12] In affirming the orders, this Court recognized the ownership of J.M. Tuason & Co. over the disputed lands, the latter, being the holder of a Torrens title. In fact, this Court observed that "considering that the appellees had a Torrens title, they had no reason to agree on paying P614,925.74 to the Deudors, except upon the expectation of delivery of said area without unreasonable delay." [13] The complaint for restitution of the Deudors is based on the premise that they, not J.M. Tuason & Co., Inc., are the owners of the disputed land. In the complaint in Civil Case No. 8080, some of the reliefs prayed for are:

"x x x x x

"(2) Ordering the herein Defendant to restore and return to the herein Plaintiffs the physical possession of the twenty (20) quiñones of land (Parcel A, Annex "D") delivered by the Plaintiffs to the herein Defendant by virtue of the Compromise Agreement which is now rescinded, the value of which is not now capable of exact pecuniary estimation;

"(3) Ordering the Defendant to vacate and restore the possession to the Plaintiffs over those portions of the land consisting of 9.5 quiñones (Parcel B, Annex "D") now being illegally occupied by the defendant, the value of which is not now capable of exact pecuniary estimation;

"(4) Enjoining the enforcement and setting aside, and declaring as null and void and of no effect, the Decision dated April 10, 1953 in Civil Case No. Q-135;" [14]

The complaint in Civil Case No. 8080 can not prosper. A judgment is conclusive between the parties and their successors in interest with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto.[15] In affirming the order rescinding the compromise agreement only in so far as the obligation of J.M. Tuason, INC. to make further payments, this Court necessarily decided that the land in dispute was owned by J.M. Tuason as possessor of a valid title. That this Court considered the Deudors as mere physical possessors of the fifty (50) quiñones of land and that the delivery of the first twenty (20) quiñones was a delivery from one in physical possession to another who is the rightful owner can further be inferred from the Court's statement that the obligation to deliver the other thirty (30) quiñones of land arose from the fact that the J.M. Tuason & Co., Inc. is the owner and the promise made by the Deudors in the Compromise Agreement.[16] Thus it was an error for the Deudors to conclude that there should be restitution as a result of the rescission mentioned in G.R. NO. L-13768 and G.R. NO. L-20105. To accept this theory will again put in issue the matter as to who is the real owner of the lands in dispute - a matter necessarily involved and resolved in G.R. NO. L-13768.

In G.R. NO. L-20105, this Court affirmed the order of the Court of First Instance of Manila dismissing the action instituted by the Deudors for the purpose of rescinding the compromise agreement mentioned in L-13768 on the ground of fraud. In affirming the order of dismissal this court held that the "question of validity of said agreement was necessarily involved in the proceedings aforementioned and that the decision and orders issued in said case G.R.NO. L-13768 bar plaintiffs herein from now raising the same question in the present case." [17]

The question of the validity of the compromise agreement is likewise necessarily included in this third case (Civil Case No. 8080) between the Deudors and J.M. Tuason, Inc. In the compromise agreement, the Deudors admitted

that the land in dispute is owned by J.M. Tuason & Co., Inc. To prove their allegation now that they, not J.M. Tuason & Co., Inc., are the real owners of the fifty (50) quiñones of land, the Deudors must inevitably repudiate their declaration in the compromise agreement by claiming that the latter is invalid. Indeed in Paragraph VIII of their complaint, the Deudors alleged that "thru deceit and misrepresentation on the part of J.M. Tuason & Co., Inc., they were induced to execute a compromise agreement with J.M. Tuason & Co., Inc." [18] It is obvious then that if Civil Case No. 8080 is allowed to prosper, the question of the validity of the compromise agreement which was already settled in G.R. Nos. L-13768 and L-20105 will again be raised anew.

The complaint for restitution is barred by the judgments in G.R. Nos. L-13768 and L-20105, both entitled *Deudor et al. vs. J.M. Tuason and Co., Inc.*, where the issues of ownership of the fifty (50) quiñones of land and validity of the compromise agreement were necessarily involved.

In their answer to the present petition, the Deudors denied the allegations contained in Paragraph 6 of the petition that the fifty (50) quiñones owned by the plaintiffs involved in Civil Case No. 8080 is covered by a valid Torrens title. They allege that up to the present, the fifty (50) quiñones owned by the plaintiffs and involved in Civil Case No. 8080 are still unregistered lands; that the alleged Transfer Certificates of Title mentioned in Paragraph 6 of the Petition have been declared null and void, *ab initio*, in a decision rendered in Civil Cases Nos. 3621, 3622 and 3623 by the Court of First Instance of Rizal, Branch II; that a copy of said decision declaring Original Certificate of Title No. 735 and all transfer certificates of title derived or emanating from said Original Certificate of Title No. 735 null and void, was attached as Annex 2 and made an integral part of the answers. [19]

The Deudors rely on the decision of Judge Eulogio Mencias of the Court of First Instance of Rizal Branch II declaring Original Certificate of Title No. 735 and all transfer certificates derived or emanating therefrom null and void *ab initio*. This decision was appealed to, and reversed by, the Supreme Court *en banc* on June 28, 1974. [20]

In upholding the validity of Original Certificate of Title No. 735, this Court found and held that:

"The lower court declared Original Certificate of Title No. 735 null and void *ab initio* because, according to said court, that title was based on Decree of Registration No. 17431 in LRC No. 7681 that was null and void, said decree having been issued pursuant to a decision of the Court of Land Registration in LRC No. 7681 which had no jurisdiction to render said decision.

"As We have adverted to, Original Certificate of Title No. 735 covers two big parcels of land: Parcel 1, known as the Santa Mesa Estate, and Parcel 2, known as the Diliman Estate. The records show that these two parcels of land had been subdivided into numerous lots, and most of those lots had been sold to numerous parties-Parcel 1 having been converted into a subdivision known as the Santa Mesa Heights Subdivision, and the lots had been sold to private individuals and entities, such that in that subdivision now are located the National Orthopedic Hospital, the station of Pangasinan Transportation Co. (Pantranco), Sto. Domingo Church, Lourdes Church and others. Necessarily, as a result of the sales of the lots into which Parcel 1 was subdivided, transfer certificates of title were issued to the purchasers of the lots, and these transfer certificates of title were based upon transfer certificates of title that emanated from Original Certificate of Title No. 735. The trial court declared null and void all transfer certificates of title emanating, or derived, from Original Certificate of Title No. 735.

"The decision of the trial court declaring null and void *ab initio* Original Certificate of Title No. 735 would invalidate the title over the entire area included in Parcel 1-which admittedly includes the six parcels of land claimed by the plaintiffs-and also the title over the entire area included in Parcel 2. Let it be noted that Parcel 1 has an area of 8,798,644.10 square meters, more or less and Parcel 2 has an area of 15,961,246 square meters, more or less; while the six parcels of land claimed by the plaintiffs have an aggregate area of only 495,453.7 square meters, more or less. In other words, the area of the six parcels of land claimed by the plaintiffs is only a little over two per cent (2%) of the aggregate area of Parcel 1 and Parcel 2. But the decision of the trial court

nullified Original Certificate of Title No.735, without any qualification.

"The trial court held that the Court of Land Registration had no jurisdiction to render the decision in LRC No. 7681 because during the registration proceedings, after the original application and notice of hearing had been duly published, the plan of Parcel 1 was amended and no publication regarding the amended plan was made. The trial court pointed out that the area and description of Parcel 1 in Decree of Registration No. 17431 are not identical with the area and description of Parcel 1 applied for and published in the Official Gazette. The trial court stressed on the point that publication is one of the essential bases of the jurisdiction of the court to hear and decide an application for registration and to order the issuance of a decree of registration, as provided in Act 496 (Land Registration Act).

"We believe that the lower court erred when it held that the Land Registration Court was without jurisdiction to render the decision in LRC No. 7681. Under Section 23 of Act 496, the registration court may allow, or order, an amendment of the application for registration when it appears to the court that the amendment is necessary and proper. Under Section 24 of the same fact the court may at any time order an application to be amended by striking out one or more parcels or by severance of the application. The amendment may be made in the application or in the survey plan, or in both, since the application and the survey plan go together. If the amendment consists in the inclusion in the application for registration of an area or parcel of land not previously included in the original application, as published, a new publication of the amended application must be made. The purpose of the new publication is to give notice to all persons concerned regarding the amended application. Without a new publication the registration court can not acquire jurisdiction over the area or parcel of land that is added to the area covered by the original application, and the decision of the registration court would be a nullity insofar as the decision concerns the newly included land. The reason is because without a new publication, the law is infringed with respect to the publicity that is required in registration proceedings, and third parties who have not had the opportunity to present their claim might be prejudiced in their rights because of failure of notice. But if the amendment consists in the exclusion of a portion of the area covered by the original application and the original plan as previously published a new publication is not necessary. In the latter case, the jurisdiction of the court over the remaining area is not affected by the failure of a new publication.

"In the case at bar We find that the original plan covering Parcel 1 and Parcel 2 that accompanied the application for registration in LRC No. 7681 was amended in order to exclude certain areas that were the subject of opposition, or which were the subject of another registration case; and the Chief of the Survey Division of the Court of Land Registration was ordered to determine whether the amended plan included lands or areas not included in the original plan. In compliance with the order of the registration court said Chief of the Survey Division informed the court that no new parcels were included in the new (or amended) plan."

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"Oddly enough, when the lower court said that the area of Parcel 1 in the decree of registration is bigger than the area of Parcel 1 in the application as published, it did not mention the fact that the difference in area is only 27.10 square meters. We believe that this difference of 27.10 square meters is too minimal to be of decisive consequence in the determination of the validity of Original Certificate of Title No. 735. It was error on the part of the lower court to lay stress on this circumstance and made it a basis for ruling that because in the amended plan there is this increase in area as compared to the appearing in the application as published, the Land Registration Court did not have jurisdiction to render the decision decreeing the registration of Parcel 1 in LRC No. 7681. The Chief of the Survey Division of the Court of Land Registration, in his report to the court of January 24, 1914 (Exh. 22), stated that the new plan of Parcel 1 did not include any land that was not included in the original plan. That report was made precisely in compliance with the order of the registration court, in the decision of December 29, 1913 in LRC No. 7681, to inform the court "si los nuevos planos incluyen o no terreno que no haya sido comprendido en los planos originales." That report was submitted by the Chief Surveyor "despues de un detenido estudio de los planos unidos a los expedientes." Under the

foregoing circumstances, our inference is that the area of 27.10 square meters was already included in the original plan, and that the computation of the area in the original survey must have been inaccurate; and the error was corrected in the recomputation of the area when the amended plan was prepared. We made a careful study and comparison of the technical description of Parcel 1 appearing in the application as published, and the technical description appearing in Decree of Registration No. 17431 (Exhs. 19, 19-A and Z-6), and We accept the explanation of counsel for the appellant that this seeming increase of 27.10 square meters had been brought about 'by the fact that when the amendment of the plan was made, the distances and bearings in a few points along the southwestern boundary (Please see Exh. 19) were brought to the nearest millimeter and to the nearest second respectively; whereas, the computation of the survey in the original plan was to the nearest decimeter and to the nearest minute only.' We believe that this very slight increase of 27.10 square meters would not justify the conclusion of the lower court that 'the amended plan x x x included additional lands which were not originally included in Parcel 1 as published in the Official Gazette.' It being undisputed that Parcel 1 has an area of more than 8,798,600 square meters (or 879.86 hectares), We believe that this difference of 27.10 square meters, between the computation of the area when the original plan was made and the computation of the area when the amended plan was prepared, can not be considered substantial as would affect the identity of Parcel 1." [21]

The respondent Judge should have dismissed Civil Case No. 8080.

The complaints in intervention should likewise be dismissed. An intervention is regarded as collateral or accessory or ancillary to the original action and not an independent proceeding. Thus the dismissal of Civil Case No. 8080 necessarily includes that of the complaints in intervention. Moreover, the records show that the intervenors were allowed to intervene because of their legal interest in the proceeding which consists in the possible declaration of Original Certificate of Title No. 735 as null and void. In other words, if Original Certificate of Title No. 735 is found by this Court to be null and void then petitioner J.M. Tuason will lose all claims of ownership over the lands they are occupying. The intervenors, in alleging that Original Certificate of Title No. 735 is void also invoked the decision of Judge Eulogio Mencias of the Court of First Instance of Rizal in Civil Case Nos. 3621, 3622, 3623. As mentioned earlier, this decision has been reversed by the Supreme Court and consequently there is no more doubt as to the validity of Original Certificate of Title No. 735. Therefore, the intervenors no longer have any interest in the principal case.

WHEREFORE, the petition is granted, all the orders assailed are declared null and void and the respondent court is hereby ordered to dismiss Civil Case No. 8080 of the Court of First Instance of Rizal against the petitioner, without costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.

[1] Rollo, p. 24.

[2] Ibid., pp. 2-10.

[3] Ibid., pp. 200-201.

[4] Ibid., pp. 207-208; 210-218; 311-312; 326-327; 340-341; 354-356; 371-372; 385-386; 407-408; 423-424; 436-437; 457-458; 477-478; 493-494; 512-513; 530-531; 556-557; 572-573; 588-589; 607-608; 627-629; 648-649; 654-655; 669-670; and 709-710.

[5] Ibid., p. 309.

[6] Ibid., pp. 399, 644.

[7] Ibid., pp. 659, 692, 721.

[8] Ibid., pp. 665-668.

[9] Rollo, pp. 1-2.

[10] Ibid., pp. 227-229.

[11] G.R. Nos. L-13768 and L-20105 both entitled Deudor et al. vs. J.M. Tuason were decided by this Court on May 30, 1961, and October 31, 1963 respectively. See 2 SCRA 129 and 9 SCRA 444.

[12] 2 SCRA 129. In the compromise agreement the Deudors agreed to give up their possessory rights over 50 quiñones of land in favor of the OWNERS, J.M. Tuason & Co., Inc. and in consideration of the renunciation, cession and quitclaim, and of the improve-ments which the Deudors had made on said property, and of their undertaking to help maintain the owner's possession of said property and other obligations assumed by the Deudors under said agreement, J.M. Tuason & Co., Inc. promised to pay the Deudors the amount of P1,201,063.00. (Rollo, pp. 34-35)

[13] 2 SCRA 139.

[14] Rollo, p. 100.

[15] Sec. 49, Rule 39, Rules of Court.

[16] 2 SCRA 141.

[17] 9 SCRA 452.

[18] Rollo, p. 92.

[19] Rollo, pp. 230-231.

[20] Benin, et al. vs. J.M. Tuason, 57 SCRA 531.

[21] Ibid., pp. 550-552; 556-557.

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