

CANDIDO BUENA, PLAINTIFF AND APPELLANT, VS. ELVIRA SAPNAY, SALOME SAPNAY, GERTRUDIS SAPNAY, MANUEL BULACAN, PASCUAL SACUEZA, FLORO SACUEZA, FLORENCIA SACUEZA, JUANA SACUEZA, MAR...

G.R. No. L-18402. November 29, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

From the decision of the Court of First Instance of Camarines Sur (in Civil Case No. 1767), dismissing with costs his complaint against defendants Elvira, Salome, and Gertrudes Sapnay, Pascual Floro, Florencia, Juana, Marcelina, Emilio Sacueza and Manuel Bulacan, plaintiff Candido Buena interposed the present appeal.[1]

The facts of the case are succinctly stated in the trial court's decision, to wit:

"Before the last World War, herein plaintiff obtained a judgment in Civil Case No. 6024 of this Court against herein original defendants. During the war, the records of said case were destroyed, and after liberation, plaintiff applied for reconstitution in Case No. R-237. After hearing, this Court granted the application and, among the official records declared reconstituted, was the decision: in that case, a certified copy of which as reconstituted, is Exh. A. As the decision has not yet been executed, and more than five (5) years have already elapsed from its entry, plaintiff now seeks its revival in this action, offering the reconstituted copy of the decision as evidence of the judgment.

"Six of the ten defendants in the present case, namely: Elvira Sapnay, Salome Sapnay, Gertrudes Sapnay, Florencia Sacueza, Marcelina de Sacueza, and Emilio Sacueza, Jr., were declared in default, for having failed to file their responsive pleadings within the reglementary period. The answering defendants Manuel Bulacan, Pascual Sacueza, Floro Sacueza, and Juan Sacueza, raised two points in defense, to wit: (1) that the order reconstituting the record is void, because the Court did not acquire jurisdiction over the persons of the defendants in Case No. R-237 and (2) that the reconstituted decision is illegal, because it has not been reconstituted from an authentic copy of the original decision.

"The following facts are not in dispute: Defendants Rufino Sapnay and Emilio Sacueza, in Civil Case No. 6024, were already deceased when the application for reconstitution (Exh. B) was filed on November 22, 1950. They both died in 1942. Of the remaining five defendants, only Manuel Bulacan was notified of the hearing in Case No. R-237, which was set for November 25, 1950. The notice of hearing was made by plaintiff's counsel. It was mailed only on November 22, 1950 (Exh. B-5), and was not received by Bulacan until December 1, 1950 (Exh. B-6.) The hearing of the application, nonetheless, proceeded despite the previous death of Rufino Sapnay and Emilio Sacueza, the defective notice on Manuel Bulacan, and the lack of notice on the four other defendants. After hearing, the Court reconstituted the records in its order dated November 25, 1950 (Exh. C). (*Italics supplied*).

"It is also not disputed that only a simple copy of the decision in Civil Case No. 6024 (Exh. B-4) was attached to the application for re constitution. This fact was admitted by plaintiff's counsel in open Court, who said that

no authentic copy could be attached, because plaintiff received only a simple copy. Exh. A was reconstituted from the said simple copy."

On the basis of the foregoing facts, the trial court, on November 28, 1953, dismissed the case in a decision, which partly reads:

"From the foregoing facts, it is clear that the order of reconstitution (Exh. C) and the reconstituted decision (Exh. A) are null and void. Section 3 of Act No. 3110, requires that notice of hearing in cases for reconstitution, shall be sent to all the interested parties by the Clerk of Court. This was not done in Case No. R-237. And, neither were the defendants in said case notified of the hearing by any other means, except Manuel Bulacan who, however, cannot also be bound by said notice, because it was irregular and defective. For these reasons, the Court did not acquire jurisdiction over the persons of said defendants and, consequently, the order of reconstitution (Exh. C) is void. For, in order that a Court may validly try a case, it must have jurisdiction over the subject-matter and over the persons of the parties. The reconstituted decision, Exh. A, is also null and void, because it was not reconstituted by means of an authentic copy, in violation of Section 7 of Act No. 3110, which heads as follows:

'If a Civil Case has already been decided, the decision shall be constituted by means of an authentic copy. In case an authentic copy cannot be found, the Court shall make a new decision, as if the case has never been decided.'

"The nullity of the reconstituted decision is clear from the recitals of the order of reconstitution. This order expressly recites that Annex 'D', of which Exh. B-4 is a duplicate copy, is only a 'true and exact' copy of the decision. As the nullity appears on the face of the order, the validity of both the order and the reconstituted decision may be attached either directly or collaterally, and at any time (*Gomez vs. Concepcion*, 47 Phil. 717; *Anuran vs. Aquino*, 38 Phil. 29). That is so, because in the language of our Supreme Court, such a void judgment 'may be said to be a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head' (*Banco Español-Filipino vs. Palanca*, 37 Phil. 921; *Lipana vs. Court of First Instance of Cavite*, 40 Off. Gaz. Sup. 198).

"WHEREFORE, the complaint is hereby dismissed, with costs against the plaintiff.

"SO ORDERED."

The sole question for determination in this case is, whether the trial court acted correctly in dismissing plaintiff's complaint.

Plaintiff-appellant argues that the order (dated November 25, 1950) reconstituting the decision (dated March 18, 1941), in Civil Case No. 6024, is binding on defendants-appellees, as the latter failed to file a petition for relief of judgment, as provided in Sections 2 and 3, Rule 38, of the Rules of Court^[2] after he learned of the same, from the allegations of Paragraph 2 of his complaint in the instant case.

Appellant's contention might be correct had the court in the reconstitution case (Case No. R-237) acquired jurisdiction over the defendants therein and, therefore, could validly render judgment thereon. But, as found by the trial court, the court in the reconstitution case (Case No. R-237), never acquired jurisdiction over the defendants, because one of them (Manuel Bulacan) was defectively notified, and the four other defendants were not notified at all of the hearing therein, in violation of Section 8 of Act No. 3110, which requires that notice of hearing in cases for reconstitution must be sent to all the interested parties. Consequently, the proceedings had in said case (Case No. R-237) were null and void,^[3] including the order of reconstitution in question, which may be considered "as a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head" (*Banco-Español Filipino vs. Palanca*, 37 Phil. 921; *Lipana vs. Court of First Instance of Cavite*, 74 Phil. 18), and attached either directly or collaterally (*Gomez vs. Concepcion*, 47 Phil. 717;

Anuran vs. Aquino, 38 Phil. 29).

With this conclusion, it is unnecessary for us to discuss the other point raised by appellant in his brief, namely, that Exhibit A, which is a "true and exact" copy of the decision in Civil Case No. 6024 is an "authentic copy" required under Section 7 of Act No. 3110.

We are of the opinion and so hold that the trial court correctly dismissed appellant's complaint in the instant case based upon an invalidly reconstituted decision.

Wherefore, the judgment appealed from is hereby affirmed, with costs against the plaintiff-appellant. It is so ordered.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Originally appealed to the Court of Appeals, but certified to us by said court on February 16, 1961, on the ground that it involves only questions of law.

[2] "SEC. 2. Petition to Court of First Instance for relief from judgment or other proceeding thereof.—When a judgment or order is entered, or any other proceeding is taken, against a party in a Court of First Instance through fraud, accident, mistake, or excusable negligence, he may file a petition for such court and in the same cause praying that the judgment, order, or proceeding be set aside.

"SEC. 3. When petition filed; contents and verification.—A petition provided for in either of the preceding sections of this rule must be verified, filed within sixty days after the petitioner learns of the judgment, order, or other proceeding to be set aside, and not more than six months after such judgment or order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be, which he may prove if his petition be granted."

[3] Salmon & Pacific Commercial Co. vs. Tan Cuevo, 36 Phil. 556.

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