

FELICISIMA DE LA CRUZ, ET AL., PETITIONERS, VS. HON. EDGARDO L. PARAS, AS JUDGE, CFI OF BULACAN, BRANCH VII, AND PABLO SAN MIGUEL, RESPONDENTS.

G.R. No. L-41053. February 27, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

The prime issue presented to Us in this special civil action for certiorari and/or mandamus, which was certified by the Court of Appeals on July 15, 1975, involves the rule in determining whether an order is final and appealable or is merely interlocutory.

Sometime in 1962, Pedro San Miguel,[1] the predecessor-in-interest of the herein petitioners, commenced a "Complaint for Partition of Real Estate" before the Court of First Instance of Bulacan against private respondent Pablo San Miguel. The complaint, docketed as Civil Case No. 2624, sought the partition of Lot No. 4543 of the Lolomboy Estate, which is a portion of original Lot No. 3237 and covered by Transfer Certificate of Title No. T-15369 of the Registry of Deeds of Bulacan. Traversing the complaint, respondent Pablo San Miguel disclaimed co-ownership and asserted exclusive ownership of Lot No. 4543.

Subsequently, on March 19, 1964, the then trial judge, Ricardo C. Puno, ordered the dismissal of the case pursuant to Section 3, Rule 17 of the Revised Rules of Court for "apparent lack of interest in the prosecution of the respective claims of the litigants."

Eleven years thereafter, another complaint for partition, docketed as Civil Case No. 4300-M of the Court of First Instance of Bulacan, was instituted by the same Pedro San Miguel against private respondent Pablo San Miguel. This time, the complaint prayed for the partition of Lot No. 4543 (covered by TCT No. T-15369, Bulacan) and Lot No. 3269 (covered by TCT No. T-15370, Bulacan). In due time, Pablo San Miguel filed his answer, pleading therein the defense of res judicata. For him, the same subject matter and cause of action had already been litigated upon and resolved in the previous Civil Case No. 2624. After preliminary hearing, the respondent Judge issued an order on December 10, 1973, dismissing Civil Case No. 4300-M "insofar as Lot 4543 is concerned" in view of the principle of res judicata.

The case was ordered to proceed as regards Lot No. 3269, and on July 31, 1974, respondent Judge rendered a decision ordering the parties "as CO-OWNERS to present to this Court within ten (10) days from receipt hereof, a PROJECT OF PARTITION, dividing Lot No. 3269 (Transfer Certificate of Title No. T-15370, Bulacan) into two equal parts." Petitioners received a copy of this decision on August 13, 1974.

On September 12, 1974, petitioners interposed their appeal from this judgment of the trial court. On said date, their notice of appeal, appeal bond and record on appeal were filed.

On December 9, 1974, respondent Judge approved petitioners' corrected record on appeal but "insofar only as Lot No. 3269 is concerned * * * because the case with respect to Lot 4543 has long become (sic) FINAL, cannot be

appealed anymore, and therefore any record on appeal thereon will be useless, moot and academic * * *."

After the denial of their motion for reconsideration, petitioners filed a "Petition for Certiorari And/Or Mandamus" before the Court of Appeals on February 5, 1975, but the latter court elevated the petition to Us upon discovering that only questions of law are raised.

It is readily discernible that the decisive question in this case is whether or not the order of the respondent Judge, dated December 10, 1973, dismissing Civil Case No. 4300-M as regards Lot No. 4543, is final and appealable.

Section 2, Rule 41 of the Revised Rules of Court provides that "(o)nly final judgments or orders shall be subject to appeal." Interlocutory or incidental judgments or orders do not stay the progress of an action nor are they subject of appeal "until final judgment or order is rendered for one party or the other." The test to determine whether an order or judgment is interlocutory or final is this: "Does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final".[2] A court order is final in character if it puts an end to the particular matter resolved or settles definitely the matter therein disposed of,[3] such that no further questions can come before the court except the execution of the order.[4] The term "final" judgment or order signifies a judgment or an order which disposes of the cause as to all the parties, reserving no further questions or directions for future determination.[5] The order or judgment may validly refer to the entire controversy or to some definite and separate branch thereof. "In the absence of a statutory definition, a final judgment, order or decree has been held to be * * * one that finally disposes of, adjudicates, or determines the rights, or some right or rights of the parties, either on the entire controversy or on some definite and separate branch thereof, and which concludes them until it is reversed or set aside." [6] The central point to consider is, therefore, the effects of the order on the rights of the parties. A court order, on the other hand, is merely interlocutory in character if it is provisional and leaves substantial proceeding to be had in connection with its subject.[7] The word "interlocutory" refers to "something intervening between the commencement and the end of a suit which decides some point or matter but is not a final decision of the whole controversy." [8]

1. We find that the order of dismissal entered by respondent Judge in Civil Case No. 4300-M on December 10, 1973, is a clear final and appealable order. The said order is a final disposition of the whole controversy between the parties with respect to the ownership of Lot No. 4543. It is absolute and conclusive on all questions in regard thereto.[9] The trial court's order is not a mere narrow acceptance of private respondent's plea of *res judicata*. It has more the far-ranging effect of confirming private respondent's claim of exclusive ownership of Lot No. 4543, as previously adjudicated in the prior Civil Case No. 2624. It imports that private respondent is the sole owner of this specific lot; as a result of which, the deceased Pedro San Miguel or his successors-in-interest for that matter stand to suffer the loss of what they claim is their rightful share thereto.[10] After the issuance of this order, nothing more was left for the trial court to try or decide, as the conflicting claims of the parties over the subject lot have already been resolved. As a matter of fact, this final order of dismissal cannot even be assailed by certiorari. The remedy is appeal, which petitioners herein have failed to undertake.[11] The fact that the other lot, Lot No. 3269, remained under litigation and the respective claims of the parties thereto yet to be settled by the trial court would not affect the final nature of the subject order, because a decree is nonetheless final although some independent branch of the case is reserved for future consideration.[12]

2. Reason lies in the order of the respondent Judge, dated December 10, 1973, foreclosing the re-litigation of Lot No. 4543 because of the March 19, 1964 order of the then trial Judge, Ricardo C. Puno, in Civil Case No. 2624, which involves the same lot, dismissing the case for lack of interest to prosecute. This dismissal order of the said trial Judge has the effect and consequences of a dismissal on the merits under Section 3, Rule 17 of the Revised Rules of Court since it was neither without prejudice nor based upon lack of jurisdiction.[13] It is worthy to note that the deceased Pedro San Miguel interposed no appeal therefrom. Instead, he attempted to revive the subject

matter of that Civil Case No. 2624 (Lot No. 4543) eleven years thereafter, when he commenced Civil Case No. 4300-M, praying for the partition of Lot No. 3629 and Lot No. 4543. This, the deceased Pedro San Miguel could not do so. Litigation on this particular Lot No. 4543 must reach a terminal point. The principle of estoppel by judgment, one of the aspects of the doctrine of *res judicata*, precludes the re-litigation in another action of a specific question actually litigated and determined in a former one.[14] The second case, Civil Case No. 4300-M, is barred by the prior judgment in the first case, Civil Case No. 2624, insofar as it relates to Lot No. 4543. For, there is identity of parties, subject matter and cause of action between the first case where the judgment was rendered and the second case which is sought to be barred as far as Lot No. 4543 is concerned. Likewise, the judgment in the first case is a final one rendered by a court of competent jurisdiction upon the merits.[15]

3. There is no doubt that access to the courts is a constitutional guarantee. This is, however, subject to limitations. Once the rights of a party-litigant have been adjudicated in a valid final judgment of a competent court, the party-litigant can no longer litigate the same again.[16] A right, question or fact distinctly placed in issue and directly determined by a court of competent jurisdiction, cannot be disputed in a subsequent suit between the same parties or their privies; and even if the second suit is for a different cause of action, the right, question or fact once so determined must, as between the same parties or privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified.[17] Public policy and sound practice demand that "at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law." [18] *Reipublicae ut sit finis litium*.

It results, therefore, that respondent Judge did not abuse his discretion when he issued the order of December 9, 1974, approving petitioners' corrected record on appeal "insofar only as Lot 3269 is concerned * * * because the case with respect to Lot 4543 has long become (sic) FINAL * * *."

Accordingly, the order of December 9, 1974, subject matter of this petition, issued by respondent Judge in his Civil Case No. 4300-M, approving petitioners' corrected record on appeal with respect only to Lot 3269, is hereby affirmed. Costs against petitioners. So ordered.

Teehankee (Chairman), Makasiar, Esguerra, and Palma, JJ., concur.

[1] Substituted in this case by the above-named petitioners, his successors-in-interest, after his death on July 4, 1974.

[2] *Kapisanan Ng Mga Manggagawa sa MRR Co. v. Yard Crew Union, et al.*, 109 Phil. 1150-51 (1960); Moran's Comments on the Rules of Court, Vol. 2, 1970 ed., p. 400.

[3] *Bairan v. Tan Siu Lay*, L-19460, December 28, 1966, 18 SCRA 1239; *Acting Director, NBI v. Caluag*, L-16146, May 31, 1961, 2 SCRA 541.

[4] Freeman, *A Treatise of the Law of Judgments*, Vol. 1, p. 40.

[5] See 79 A.L.R. 2d 1356.

[6] *Antonio v. Samonte*, L-15410, April 26, 1961, 1 SCRA 1074, quoting 4 C.J.S. 257-58.

[7] *Bairan v. Tan Siu Lay*, ante, fn. 3.

[8] *Province of Bohol v. NWSA*, L-30856, February 27, 1970, 31 SCRA 841-42, quoting Black's Law Dictionary, 4th ed., 1951 p. 951; Bouvier's Law Dictionary, 3rd Revision, Vol. 1, p. 165.

[9] See *Vencilao v. Vaño*, L-25660, August 12, 1966, 17 SCRA 933.

[10] See *Africa v. Africa*, 42 Phil. 940-42 (1921).

[11] *Bacabac v. Delfin*, L-13515, April 29, 1961, 1 SCRA 1196.

[12] *Freeman*, ante, fn. 4, at 54-55.

[13] *Rasay-Lahoz v. Leonor*, L-27388, March 23, 1971, 38 SCRA 49-50; *Cruz v. Mossesgeld*, L-20495, August 31, 1968, 24 SCRA 1010-11; *Guanzon v. Mapa*, L-19249, February 28, 1963, 7 SCRA 460; *Canite v. Madrigal & Co., Inc.*, 116 Phil. 96 (1962). N.B. An order in an action for the partition of hereditary property, where the whole or any part thereof is claimed exclusively by any of the party-litigants, is appealable, for such order is a final settlement of the question raised. Although entitled action for partition, the complaint, properly speaking, is one for recovery of property. See *Africa v. Africa*, ante, fn. 10.

[14] Section 49 (b), Rule 39, Revised Rules of Court.

[15] See *Comilang v. Court of Appeals*, L-37312, July 15, 1975, Second Division, per Antonio, J., 65 SCRA 78; *PC1 Bank v. Pfleider*, L-28017, July 15, 1975, per Esguerra, J., 65 SCRA 22.

[16] *Yusingco v. Ong King Lian*, L-26523, December 24, 1971, 42 SCRA 589; *Ferinion v. Sta. Romana*, L-25521, February 28, 1966, 16 SCRA 374-75

[17] Sections 49 (b) and (c), Rule 39, Revised Rules of Court; *Okol v. Tayug Rural Bank, Inc.*, L-28115, October 30, 1970, 35 SCRA 622-23; *Garcia v. Court of Appeals*, L-19783, July 30, 1965, 14 SCRA 725; *Cromwell v. Sac County*, 24 L. ed. 197-98; *U.S. v. Munsingwear*, 95 L. ed. 40.

[18] *King v. Joe*, L-23617, August 23, 1967, 20 SCRA 1120; *Zambales Academy, Inc. v. Villanueva*, L-19884, May 8, 1969, 28 SCRA 9-10.

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