

**OBDULIA ARAGON, CONRADO ARAGON, AND MAXIMO ARAGON,
PLAINTIFFS AND APPELLEES, VS. FRANCISCO ARAGON, BEATRIZ
ARAGON, AND MIGUELA ARAGON, DEFENDANTS AND APPELLANTS.**

G. R. No. L-11472. March 30, 1959

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from the decision of the Court First Instance of Leyte in its Civil Case No. 776, annulling the previous final judgment rendered by it in Civil Case No. 578, ordering the partition of certain parcels of land.

It appears that on September 29, 1949, appellants filed with the Court of First Instance of Leyte a complaint against appellees (Civil Case No. 578) for partition of 11 parcels of land described therein. (Record on Appeal, pp. 8-11). The defendants in said case (appellees herein) were declared in default for failure to file their answer within the reglementary period, in spite of summons duly served upon them (Exh. 1, p. 1, Records). Trial having been had, the court rendered judgment, on December 22, 1949, finding (1) that all the parcels of land described in the complaint belonged originally to the deceased spouses Mauricio Aragon and Leona Ingay (parents of the parties-litigants) ; (2) that plaintiffs and defendants were co-owners thereof, and (3) ordering the partition of said eleven (11) parcels among them. (Record on Appeal, p. 11)

For failure of the parties to amicably partition the properties among themselves, the court appointed commissioners to effect such partition. (Exhibit 3, p. 3, Records) The commissioners submitted a project of partition on March 11, 1950 which was approved by the court on April 1, 1950. (Exhibits 5, 9, 11, p. 17, Records)

In two separate petitions (Exhibits 10 and 13, pp. 13 and 19, Records), the then defendants (now appellees) sought the judgment to be set aside on the ground of excusable neglect under Rule 38 of the Rules of Court. Both motions were denied. (Exhibits 12 and 14, pp. 18 and 25, Records). A petition to set aside the order of the court approving the project of partition (pp. 22-23, Records) was likewise denied (Exhibit 14, p. 25, Records). No appeal was taken, and the judgment became final. Consequently, a writ of execution (Exhibits 15 and 16, pp. 26 and 27, Records) was issued by the court, by virtue of which the sheriff placed the parties in possession of the respective portions allotted to them in the project of partition (Exhibit 17, pp. 28-30, Records). The then defendants refused to receive their respective portions (pp. 31-33, Records) and, instead, filed the instant action to annul the final judgment in said Civil Case No. 578, on the ground of lack of jurisdiction on the part of the trial court which rendered it.

A motion to dismiss, dated February 15, 1951, (pp. 14-19, Record on Appeal), on the ground of res judicata having been denied by the court on March 12, 1951 (Record on Appeal, pp. 24-25), defendants-appellants (successful plaintiffs in the previous case No. 578) filed their answer, dated March 20, 1951, (Record on Appeal, pp. 25-28) and after trial the court below rendered the decision appealed from (1) declaring the judgment in Civil Case No. 578 null and void insofar as it declares that plaintiffs-appellees and defendants-appellants are the co-owners of lots (a) and (d) described in the complaint for partition in Case No. 578, for lack of jurisdiction; (2)

affirming the ownership of plaintiffs-appellees Conrado Aragon and Francisco Aragon over said lots (a) and (d); (3) declaring the project of partition null and void, for being inequitable, and (4) ordering the parties to make a new project of partition of the rest of the properties, excluding therefrom lots (a) and (d), within 30 days from the finality of the decision. The defendants directly appealed to this Court on points of law.

The issue herein presented is whether or not the trial court could still nullify or annul, in whole or in part, the decision in Civil Case No. 578.

There can be no question that the trial court had jurisdiction to take cognizance of the partition proceedings in Civil Case No. 578. This much has been conceded when the trial court did not declare the decision therein null and void in toto, for lack of jurisdiction. It only declared null and void that portion relating to lots (a) and (d) insofar as it declared all the parties in Case No. 578 co-owners thereof, on the theory that the Torrens Certificates of Title covering these lots, and standing solely in the name of Francisco and Conrado Aragon, are conclusive of the ownership of the same, and to declare the parties co-owners of lots (a) and (d) would be "to amend or alter the decision of the Cadastral Court in Cases Nos. 34 and 26, with respect to the above-mentioned parcels," (Appellees' Brief, p. 5). We disagree. Civil Case No. 578 was not one for the alternation or amendment of the decision or decree in the cadastral case but for the partition of properties among the co-owners. The circumstance that lots (a) and (d) are registered in the name of two of the co-owners alone does not preclude the court from including and dealing with said lots in the partition proceedings (Act 496, sec 70; *Dayao vs. Aming*, 74 Phil. 114). The rule is well settled that the registration of a parcel of land in the name of one of the co-owners does not preclude the court, in the exercise of its equity jurisdiction, from compelling the registered owner to reconvey the right, interest, share and participation in the registered parcel of the one lawfully entitled thereto. (*Sahagun vs. Gauiran*, 93 Phil., 227; 50 Off. Gaz., No. 10, p. 4316). Hence, when the trial court declared the parties to be co-owners of the eleven parcels subject of the former partition proceedings, it in effect declared that Francisco Aragon and Conrado Aragon, the registered owners of lots (a) and (d), were holding the lots in trust for the other co-owners. This⁴ was justified by the fact that, in spite of the summons served upon them in Civil Case No. 578, said appellees preferred to remain silent, without even caring to file their answer, thereby making the court believe that all the eleven parcels were common property of the parties to Case No. 578.

If there was any error in the decision in Civil Case No. 578, the same should have been corrected on appeal. Appellees' contention that they could not have appealed because they had no more standing in court, having been declared in default, and because their petitions for relief under Rule 38 of the Rules of Court had been denied, is likewise untenable. The rule is well established that appeal, not a separate action is the proper remedy for questioning the validity of a judgment, upon the denial of a petition for relief under Rule 38 of the Rules of Court.

"Not having appealed from the order denying the motion for relief under Rule 38, the plaintiff is precluded from questioning, in a separate action, the validity of the judgment sought to be annulled and set aside." (*De la Paz vs. Hiring, et al.* [Syllabus], 96 Phil., 733; 51 Off. Gaz., No. 5, 2419.)

Hence, because of appellees' failure to appeal the orders denying their petitions for relief, the decision in Civil Case No. 578, no matter how erroneous it might be, has become final (*Mandac vs. Gumarad*, 87 Phil., 278; 47 Off. Gaz. [Supp. 12,] 449; *Daquis vs. Bustos, et al.*, 94 Phil., 913 50 Off. Gaz., No. 5, 1964) and is now conclusive and binding upon them not only with respect to questions actually contested and determined therein, but upon all matters, either factual or legal, which might have been litigated and decided in that suit (*People vs. Sales*, L-8925, May 21, 1956; *Jalandoni vs. Martir-Guanzon*, 102 Phil., 859; 54 Off. Gaz., [5] 2907; *Velasquez vs. Gil*, 99 Phil., 457; 53 Off. Gaz. [17] 5615; *Namarco vs. Macadaeg, et al.*, 98 Phil., 185; 52 Off. Gaz. No. 1, 182), pursuant to the principle of *res judicata* or *estoppel* by judgment.

"It is a finality as to the claim or demand in controversy, concluding parties and those in privity with them, not

only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose." (Miranda vs. Tiangco, et al., 96 Phil., 526; 51 Off. Gaz. [3], 1366).

In as much as the ownership of the eleven parcels, including lots (a) and (d), in Civil Case No. 578 was necessarily litigated and in fact actually decided therein, the same can no longer be litigated in the instant case without doing violence to the principle above referred to.

Wherefore, the decision appealed from is set aside and the complaint dismissed, with costs in this instance. So ordered.

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

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