

MARCELINO ARCELONA, TOMASA ARCELONA-CHIANG AND RUTH ARCELONA, REPRESENTED BY THEIR ATTORNEY-IN-FACT, ERLINDA PILE, PETITIONER VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF DAGUP...

G.R. No. 102900. October 02, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

What are the remedies and the grounds therefor to invalidate a final and executory judgment? May extraneous matters, not found in the records of the original case, be used to void such final judgment? Procedurally, may an independent action for annulment of a decision filed in the Court of Appeals, prosper in the face of a claim that the remedy of intervention could have been availed of in the regional trial court during the original proceedings? Are all the co-owners pro indiviso of a real property indispensable parties? Does the non-inclusion of some of such co-owners in a suit involving tenancy over said property constitute sufficient ground to nullify the final decision rendered in such case?

The Case

These are the main questions raised in this petition for review of the Decision[1] in CA G.R. SP No. 24846 promulgated on July 16, 1991 by the Court of Appeals[2] denying petitioners' plea for annulment of a final and executory judgment rendered by the Regional Trial Court of Dagupan City, Branch 40, in Civil Case No. D-7240, and the Resolution[3] promulgated on November 21, 1991 by the appellate court denying their motion for reconsideration.

The Facts

Petitioners Marcelino Arcelona, Tomasa Arcelona-Chiang and Ruth Arcelona are natural-born Filipinos who are now naturalized Americans residing in California, U. S.A. Petitioner Ruth Arcelona is the surviving spouse and legal heir of the deceased Benedicto Arcelona, brother of Marcelino and Tomasa. Together with their three sisters - Pacita Arcelona-Olanday, Maria Arcelona-Arellano and Natividad Arcelona-Cruz (hereinafter collectively referred to as Olanday, et al.) -- petitioners are co-owners pro-indiviso of a fishpond which they inherited from their deceased parents.[4] The six Arcelonas (two brothers and four sisters) are named as co-owners in Transfer Certificate of Title No. 34341 which evidences ownership over the fishpond.

On March 4, 1978, a contract of lease over the fishpond was executed between Cipriano Tandoc and Olanday, et al. The lease contract was for a period of three (3) years but was renewed up to February 2, 1984.[5]

Private Respondent Moises Farnacio was appointed in turn by Tandoc as caretaker-tenant of the same fishpond, effective on the date the contract of lease was executed. After the termination of the lease contract, the lessee (Tandoc) surrendered possession of the leased premises to the lessors, Olanday, et al.

Three days thereafter, on February 7, 1984, Private Respondent Farnacio instituted Civil Case D-7240 for “peaceful possession, maintenance of security of tenure plus damages, with motion for the issuance of an interlocutory order” against Olanday, et al., before Respondent Regional Trial Court of Dagupan City, Branch 40. The case was intended to maintain private respondent as tenant of the fishpond.[6]

On October 31, 1984, the trial court rendered a decision in favor of private respondent, the dispositive portion of which reads:[7]

WHEREFORE, in the light of the foregoing considerations, this Court hereby renders judgment as follows; to wit:

1. Declaring and recognizing Moises Farnacio as tenant-caretaker over the fishpond in question located at Lomboy District, Dagupan City;
2. Ordering the defendants to maintain plaintiff in the peaceful possession and cultivation of said fishpond, with all the rights accorded and obligations imposed upon him by law;
3. Ordering the Branch Clerk of Court to withdraw and deliver to the plaintiff all the amounts deposited with this Court; and
4. All others claims of the parties are hereby denied for lack of merit.”

Olanday, et al. elevated the decision to the then Intermediate Appellate Court (IAC)[8] which affirmed with slight modification the decision of the trial court on May 31, 1985. On appeal, this Court[9] sustained the IAC decision in G.R. No. 71217. On May 25, 1991, after remand of the case to the court of origin, private respondent was placed in possession of the entire property covered by TCT 34341.

Petitioners then filed with Respondent Court of Appeals a petition for annulment of the aforesaid judgment against private respondent and the implementing sheriff.[10] The case was docketed as CA GR SP No. 24846. On May 8, 1991, Respondent Court issued a resolution directing petitioners “to implead as party defendant the Regional Trial Court of Dagupan City, Branch 50, Dagupan City.”[11] Respondent Court promulgated in due course the assailed Decision and Resolution.

Dissatisfied, petitioners lodged this petition for review before us on May 10, 1992. On August 24, 1992, due course was granted to the petition and the parties filed their respective memoranda.

The Issues

In their Memorandum dated November 7, 1992, petitioners allege that Respondent Court of Appeals has committed the following errors:[12]

- I. The Respondent Court of Appeals erred in ruling that the sole and only ground for annulment of judgment is extrinsic fraud.
- II. The Respondent Court of Appeals erred when it failed to consider that lack of due process and jurisdiction over the persons of the petitioners are also valid grounds for annulment of judgment.
- III. In annulment of judgment the grounds should be based solely on the records of the case. It is then an error for the Respondent Court of Appeals to consider matters extraneous to the records of the case.
- IV. The Respondent Court of Appeals erred in ruling that petitioners should have intervened in the proceedings for issuance of writ of execution before the lower court.
- V. The Respondent Court of Appeals erred in ruling that the petitioners are estopped or are guilty of laches in questioning the decision of the lower court.”

The Court believes that these five assigned errors may be condensed into three issues:

- (1) May a final judgment be annulled on the ground of lack of jurisdiction (over the subject matter and/or over the person of indispensable parties) and denial of due process, aside from extrinsic fraud?
- (2) May extraneous matters, not found in the records of the original case, be used in voiding or defending the validity of such final judgment?
- (3) Procedurally, will an independent action for annulment of the decision of the regional trial court (which was affirmed both by the Court of Appeals and the Supreme Court) filed before the Court of Appeals prosper, or is intervention before the court of origin the only remedy?

The Court's Ruling

The petition is meritorious.

First Issue: Grounds for Annulment of Final Judgment

Petitioners contend that Respondent Court of Appeals erred in decreeing “the all-sweeping and categorical pronouncement that the sole and only ground for annulment of judgment is extrinsic fraud,” and in thereby ignoring various Supreme Court rulings that a final judgment may also be annulled for “a) lack of jurisdiction over the subject matter; b) lack of jurisdiction over the persons of necessary or indispensable parties; and c) lack of due process.”[13] Petitioners argue that, being co-owners of the subject property, they are “indispensable parties.”[14] Inasmuch as they were not impleaded in Civil Case D-7240, “the questioned judgment of the lower court is void insofar as the petitioners are concerned for want of jurisdiction over their persons and [for] lack of due process.”[15] Petitioners “do not see any reason why a person who was not made a party at all could not assail the same proceedings involving his property and affecting his rights and interests.”[16]

Petitioners further maintain that since “the case involves the personal status of the private respondent, or relates to, or the subject of which is property within the Philippines, then the petitioners as non-residents” are entitled to extra-territorial service,[17] which is a “due process requirement.” As they were never served with summons, to “bar them [from] questioning the proceedings of the lower court will be compounding injustice x x x. If a party to a case can assail the proceedings for defective service of summons,” the same right should be afforded to a person who was not made a party at all.[18]

Public respondent disposed of petitioners' above contention in this wise:[19]

“First. Annulment of judgment, as the Supreme Court had occasion to rule, rests on a single ground: extrinsic fraud (Canlas vs. Court of Appeals, 170 [sic] SCRA 160, 170). Islamic Da' Wah Council of the Phils. vs. Court of Appeals, 178, 186, citing Anuran vs. Aquino, 38 Phil. 29, emphatically announced that 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 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.

Clearly, there is nothing in the petition that extrinsic fraud, as Macabingkil defines it, indeed vitiated the proceedings during the trial of Civil Case No. D-7240.

The essence of the instant petition is worded by the petitioners as follows:

“The common property involved in this case is covered by a Torrens Title, specifically mentioning the co-owners thereof. To bind the entire property and the owners thereof, all the registered owners must be impleaded. The private respondent ONLY IMPEADED the three co-owners, excluding the petitioners herein. For the petitioners

to be bound by the questioned decision, such would really be a derogation of their constitutional right to due process. The questioned decision, too, suffers the fatal defect of utter want of jurisdiction.

Accordingly, since the petition for annulment of judgment is not based on the ground of extrinsic fraud, the petition suffers from a basic and fundamental infirmity that deprives petitioners of a valid cause of action against respondents herein.”

We hold that the Court of Appeals erred in limiting the ground(s) for annulment of judgment to only one, namely, extrinsic fraud. While it is true that in the cited cases of *Canlas vs. CA*[20] and *Islamic Da’ Wah Council of the Philippines. vs. Court of Appeals*,[21] this Court said that a judgment “may be annulled on the ground of extrinsic or collateral fraud,”[22] we should hasten to add that in *Macabingkil vs. People’s Homesite and Housing Corporation*,[23] where the above ruling on annulment of judgment was based, we held that there are really three ways by which a final judgment may be attacked: [24]

Under existing rules, there are three (3) ways by which a final and executory judgment may be set aside. The first is by petition for relief from judgment under Rule 38 of the Revised Rules of Court, when judgment has been taken against the party through fraud, accident, mistake or excusable negligence, in which case the petition must be filed within sixty (60) days after the petitioner learns of the judgment, but not more than six (6) months after such judgment was entered. The second is by direct action to annul and enjoin the enforcement of the judgment. This remedy presupposes that the challenged judgment is not void upon its face, but is entirely regular in form, and the alleged defect is one which is not apparent upon its face or from the recitals contained in the judgment.[fn: *Abbain v. Chua*, 22 SCRA 798; *Cadano v. Cadano*, 49 SCRA 33; *Anuran v. Aquino*, 38 Phil. 329] As explained in *Banco Español-Filipino v. Palanca*,[fn: 37 Phil. 291, 949] ‘under accepted principles of law and practice, long recognized in American courts, the proper remedy in such case, after the time for appeal or review has passed, is for the aggrieved party to bring an action enjoining the judgment, if not already carried into effect; or if the property has already been disposed of, he may institute suit to recover it.’ The third is either a direct action, as certiorari, or by a collateral attack against the challenged judgment (which is) void upon its face, or that the nullity of the judgment is apparent by virtue of its own recitals. As aptly explained by Justice Malcolm in his dissent in *Banco Español-Filipino v. Palanca*, supra, ‘A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power so to do exists.’

Since the aforementioned decision in Civil Case No. Q-5866 is not void upon its face, it may only be annulled by direct action on the ground of fraud.

It is only extrinsic or collateral fraud, as distinguished from intrinsic fraud, however, that can serve as a basis for the annulment of judgment. [*Aring v. Original*, 6 SCRA 1021, 1025; *Velasco v. Velasco*, 2 SCRA 736] Fraud has been regarded as extrinsic or collateral, within the meaning of the rule, ‘where it is one the effect of which prevents a party from having a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters pertaining, not to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy.’[46 Am. Jur. 913] x x x.”

It is clear then that to set aside a final and executory judgment, there are three remedies available to a litigant: first, a petition for relief from judgment under Rule 38 of the Rules of Court [25] on grounds of fraud, accident, mistake and excusable negligence filed within sixty (60) days from the time petitioner learns of the judgment but not more than six (6) months from the entry thereof; second, a direct action to annul the judgment on the ground of extrinsic fraud; and third, a direct action for certiorari or collateral attack to annul a judgment that is void upon its face or void by virtue of its own recitals. Thus, *Macabingkil* did not preclude the setting aside of a decision that is patently void where mere inspection of the judgment is enough to demonstrate its nullity on grounds of want of jurisdiction or non-compliance with due process of law. This doctrine is recognized in other cases:[26]

x x x. There is no question that a final judgment may be annulled. There are, however, certain requisites which must be established before a judgment can be the subject of an action for annulment. 'Under the present procedure, aside from the reliefs provided in these two sections (Secs. 1 & 2, Rule 38), there is no other means whereby the defeated party may procure final and executory judgment to be set aside with a view to the renewal of the litigation, unless (a) the judgment is void for want of jurisdiction or for lack of due process of law, or (b) it has been obtained by fraud.' (I Moran's Rules of Court 1950 Ed., p. 697, citing *Anuran v. Aquino*, 38 Phil. 29; *Banco Español-Filipino v. Palanca*, 37 Phil. 921). Reason of public policy which favors the stability of judicial decisions are (sic) mute in the presence of fraud which the law abhors (*Garchitorena vs. Sotelo*, 74 Phil. 25)."

On the one hand, extrinsic fraud is the ground to annul a voidable final judgment; the declaration of nullity of a patently void final judgment, on the other, is based on grounds other than extrinsic fraud. To say, then, that petitioners can avail themselves only of the ground of extrinsic fraud and no other is to fail to appreciate the true meaning and ramifications of annulment/nullity.

Jurisdiction is conferred by law. Its exercise must strictly comply with the legal requisites; otherwise, a challenge on the ground of lack of jurisdiction may be brought up anytime. Such jurisdiction normally refers to jurisdiction over the subject. As an example, in a case involving the issuance of a new owner's duplicate certificate of title the original of which was lost, stolen or destroyed, the court must strictly comply with the requisites of Section 109 of P.D. 1529; otherwise, its jurisdiction may be attacked anytime. Thus, we ruled in *New Durawood Co. Inc. vs. Court of Appeals*:^[27]

In *Demetriou vs. Court of Appeals, et al.*,^[238 SCRA 158, at 162 (November 14, 1994)] this Court ruled:

'In *Serra Serra v. Court of Appeals* (195 SCRA 482 [1991]), on facts analogous to those involved in this case, this Court already held that if a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction. Consequently the decision may be attacked any time.'

In the instant case, the owner's duplicate certificates of title were in the possession of Dy Quim Pong, the petitioner's chairman of the board and whose family controls the petitioner corporation. Since said certificates were not in fact 'lost or destroyed,' there was no necessity for the petition filed in the trial court for the 'Issuance of New Owner's Duplicate Certificates of Title x x x,' In fact, the said court never acquired jurisdiction to order the issuance of new certificates. Hence, the newly issued duplicates are themselves null and void.

It is obvious that this lapse happened because private respondents and respondent judge failed to follow the procedure set forth in P.D. No. 1529 which, as already stated, governs the issuance of new owner's duplicate certificates of title.

Section 109 of the said law provides, inter alia, that 'due notice under oath' of the loss or theft of the owner's duplicate certificate 'shall be sent by the owner or by someone in his behalf to the Register of Deeds x x x' (italics supplied). In this case, while an affidavit of loss was attached to the petition in the lower court, no such notice was sent to the Register of Deeds.

Private respondents tried to convince the Court that by their failure to locate Francis Dytiongsee, they had no other recourse but to file a petition for reconstitution. Sec. 107 of the P.D. 1529, however, states that the remedy, in case of the refusal or failure of the holder -- in this case, the petitioner -- to surrender the owner's duplicate certificate of title, is a 'petition in court to compel surrender of the same to the Register of Deeds,' and not a petition for reconstitution."

Ineluctably, a judgment rendered without jurisdiction over the subject matter is void. As we elucidated in *Leonor*

vs. CA:[28]

Clearly and unequivocally, the summary procedure under Rule 108, and for that matter under Art. 412 of the Civil Code, cannot be used by Mauricio to change his and Virginia's civil status from married to single and of their three children from legitimate to illegitimate. Neither does the trial court, under said Rule, have any jurisdiction to declare their marriage null and void and as a result thereof, to order the local civil registrar to cancel the marriage entry in the civil registry. Further, the respondent trial judge gravely and seriously abused his discretion in unceremoniously expanding his very limited jurisdiction under such rule to hear evidence on such a controversial matter as nullity of a marriage under the Civil Code and/or Family Code, a process that is proper only in ordinary adversarial proceedings under the Rules.

Jurisdiction over the Personsof Indispensable Parties

True, the above dispositions refer to jurisdiction over the subject matter. Basic considerations of due process, however, impel a similar holding in cases involving jurisdiction over the persons of indispensable parties which a court must acquire before it can validly pronounce judgments personal to said defendants. Courts acquire jurisdiction over a party plaintiff upon the filing of the complaint. On the other hand, jurisdiction over the person of a party defendant is assured upon the service of summons in the manner required by law or otherwise by his voluntary appearance. As a rule, if a defendant has not been summoned, the court acquires no jurisdiction over his person, and a personal judgment rendered against such defendant is null and void.[29] A decision that is null and void for want of jurisdiction on the part of the trial court is not a decision in the contemplation of law and, hence, it can never become final and executory.[30]

Rule 3, Section 7 of the Rules of Court, defines indispensable parties as parties-in-interest without whom there can be no final determination of an action. As such, they must be joined either as plaintiffs or as defendants. The general rule with reference to the making of parties in a civil action requires, of course, the joinder of all necessary parties where possible, and the joinder of all indispensable parties under any and all conditions, their presence being a sine qua non for the exercise of judicial power.[31] It is precisely "when an indispensable party is not before the court (that) the action should be dismissed." [32] The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[33]

Petitioners are co-owners of a fishpond. Private respondent does not deny this fact, and the Court of Appeals did not make any contrary finding. The fishpond is undivided; it is impossible to pinpoint which specific portion of the property is owned by Olanday, et al. and which portion belongs to petitioners. Thus, it is not possible to show over which portion the tenancy relation of private respondent has been established and ruled upon in Civil Case D-7240. Indeed, petitioners should have been properly impleaded as indispensable parties. *Servicewide Specialists, Incorporated vs. Court of Appeals*[34] held that no final determination of a case could be made if an indispensable party is not impleaded:

x x x. An indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties that his legal presence as a party to the proceeding is an absolute necessity. In his absence there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable."

Formerly, Article 487 of the old Civil Code provided that "any one of the co-owners may bring an action in ejectment." It was subsequently held that a co-owner could not maintain an action in ejectment without joining all the other co-owners. Former Chief Justice Moran, an eminent authority on remedial law, explains:[35]

x x x. As held by the Supreme Court, were the courts to permit an action in ejectment to be maintained by a

person having merely an undivided interest in any given tract of land, a judgment in favor of the defendants would not be conclusive as against the other co-owners not parties to the suit, and thus the defendant in possession of the property might be harassed by as many succeeding actions of ejectment, as there might be co-owners of the title asserted against him. The purpose of this provision was to prevent multiplicity of suits by requiring the person asserting a right against the defendant to include with him, either as co-plaintiffs or as co-defendants, all persons standing in the same position, so that the whole matter in dispute may be determined once and for all in one litigation.”

Contrariwise, it is logical that a tenant, in an action to establish his status as such, must implead all the pro-indiviso co-owners; in failing to do so, there can be no final determination of the action. In other words, a tenant who fails to implead all the co-owners cannot establish with finality his tenancy over the entire co-owned land.

Co-owners in an action for the security of tenure of a tenant are encompassed within the definition of indispensable parties; thus, all of them must be impleaded. As defined:[36]

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them. Also, a person is not an indispensable party if his presence would merely permit complete relief between him and those already parties to the action, or if he has no interest in the subject matter of the action. It is not a sufficient reason to declare a person to be an indispensable party that his presence will avoid multiple litigation.”

Clearly, the decision in Civil Case D-7240 cannot bind petitioners and cannot adjudicate the entire co-owned property, not even that portion belonging to Olanday et al., ownership of the property being still pro-indiviso. Obviously, the failure to implead petitioners barred the lower court from making a final adjudication. Without the presence of indispensable parties to a suit or proceeding, a judgment therein cannot attain finality.[37]

Ergo, *res inter alios judicatae nullum aliis praejudicarium faciunt*. [38] Thus, the Court, through former Chief Justice Marcelo B. Fernan, held that a person who was not impleaded in the complaint cannot be bound by the decision rendered therein, for no man shall be affected by a proceeding in which he is a stranger [39]

Admittedly, in this case, the want of jurisdiction of the trial court in rendering its decision in Civil Case No. D-7240 is not patent on the face of said judgment. However, there were glaring documentary and testimonial pieces of evidence referred to by the trial court in its decision which should have prompted it to inquire further whether there were other indispensable parties who were not impleaded. These facts and circumstances should have forewarned the trial court that it had not acquired jurisdiction over a number of indispensable parties. In American jurisprudence, the nullity of a decision arising from lack of jurisdiction may be determined from the record of the case, not necessarily from the face of the judgment only. [40] We believe that this rule should be applied to this case, considering that in the assailed trial court’s decision, referrals were made to crucial evidence which if scrutinized would readily reveal that there were indispensable parties omitted.

First, the decision referred to the subject property “as Lot No. 3312 of the Cadastral Survey.”[41] This lot was particularly described in private respondent’s Complaint dated February 6, 1984 filed in Civil Case D-7240.[42] Obviously such description was copied by private respondent from the transfer certificate of title over the subject fishpond issued on August 12, 1975 naming all the co-owners, including the herein petitioners and the fact of their foreign residences, thus:[43]

IT IS HEREBY CERTIFIED that certain land situated in the City of Dagupan, formerly in the Province of Pangasinan bounded and described as follows:

A parcel of land (Lot 3312 of the Cadastral Survey of Dagupan), situated in the City of Dagupan. x x x

is registered in accordance with the provisions of the Land Registration Act in the name of PACITA ARCELONA, married to Miguel Ulanday; TOMASA ARCELONA, married to Tung Ming Chiang; MARCELINO V. ARCELONA, married to Soledad Tiongco; MARIA V. ARCELONA, married to Oreste Arellano; BENEDICTO V. ARCELONA, married to Ruth Suget; and NATIVIDAD ARCELONA, married to Agrimero Cruz; all of legal age, Filipinos, the second and fifth named residents of Los Angeles, California, U.S.A., third & fourth of Manila; first of Villasis, Pangasinan & the last named of Lingayen, Pangasinan as owner thereof in fee simple, subject to such of the incumbrances mentioned in Section 39 of said Act as may be subsisting, and to

Entered at the City of Dagupan

Philippines, on the 12th day of

August in the year nineteen hundred

and seventy-five at 4:00 p m.”

(Underscoring supplied).

Considering that private respondent was suing to establish his status as a tenant over the subject fishpond, the responsibility for impleading all the indispensable parties undeniably rested on him as provided under Rule 3 of the Rules of Court. Section 2 of Rule 3 requires that “every action must be prosecuted and defended in the name of the real party in interest. All persons having an interest in the subject of the action and in obtaining the relief demanded shall be joined as plaintiffs.” Further, Section 7 of the same rule states that “(p)arties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.”

Second, Respondent Court of Appeals ruled that private respondent “in his motion to dismiss (before said Court) alleged that petitioners knew of the lessee as revealed by the testimony of Pacita Olanday, one of the defendants in Civil Case No. D-7240 and a sister of petitioners. (TSN, pp. 15-16, hearing of October 2, 1984, Civil Case No. D-7240).” That being so, why did private respondent fail to include petitioners as defendants in the case below? It should be noted that the lease contract was between Cipriano Tandoc and Olanday, et al. Private respondent, a caretaker-tenant of Tandoc, knew or should have known that there were co-owners other than Olanday, et al. And even conceding arguendo that petitioners had authorized Olanday, et al. to enter into a lease contract with Tandoc, this fact did not authorize the latter to represent petitioners in the civil case he brought. Under Rule 9, Section 9 of the Rules of Court, the pleader is required to set forth the names, if known to him, of persons who ought to be parties, if complete relief is to be accorded to those who are already parties but who are not joined; and to state why they have been omitted. Surely, he brought suit to establish his status as a tenant. It is thus his responsibility to state the names of all the persons against whom he wants to establish his status as tenant.

Third, both the private respondent and the trial court knew of the obvious omission of petitioners as party

defendants. Telling is the fact that, by reciting part of the transcript of stenographic notes, private respondent himself provided clear evidence in his memorandum that he knew of the existence of other co-owners who were not impleaded in his case against Olanday et al.[44]

As admitted by Pacita Olanday, one of the defendants in Civil Case No. D-7240, the petitioners know of the lease with Cipriano Tandoc; they were authorized to lease the shares of the petitioners. Here is the testimony of Pacita Olanday:

ATTY. VINLUAN:

Q. You made mentioned that you were authorized by your brothers and sister who are (sic) residing in the United States to enter into a contract. Did these brothers and sister of yours make any special power of attorney authorizing you to that effect?

x x x x x x

A I talked with my brothers when they 'balik-bayan', they said I will make an agreement. (tsn. October 2, 1984 pp. 15 and 16 - CV# D-7240)."

He also knew that in executing the lease, Pacita Olanday represented only her sisters (Maria and Natividad) who were residing in the Philippines. Definitely, at the time of the execution of the contract, she had no brother residing in the Philippines because her only brothers, Marcelino and Benedicto Arcelona, (the latter now deceased and represented in this case by Petitioner Ruth Arcelona) were living in California. This fact can be deduced from the recitals of the RTC decision:[45]

It is undisputed in the records that the defendants (referring to Olanday, et al.) are co-owners and civil law lessors of a fishpond otherwise known as Lot No. 3312 of the Cadastral Survey of Dagupan City; that as owners, they entered into a Contract of Lease (Exh. '1') with one Cipriano Tandoc dated March 4, 1978 for a term of three (3) years from February 2, 1982, which contract was renewed for another two (2) years up to February 2, 1984. On the 31st of January, 1984, Exhibit '3', an 'Affidavit of Surrender of Rights and Possession of Lessee over a Fishpond' was executed between Cipriano Tandoc and Pacita Olanday who signed for herself and in behalf of her two (2) sisters. Plaintiff Moises Farnacio was however, instituted as caretaker-tenant over the same fishpond by Cipriano Tandoc on the date of the Contract of Lease was entered into between the owners-lessors and Cipriano Tandoc. The private agreement (Exh. 'D') signed by Cipriano Tandoc and Moises Farnacio is, however, assailed in a criminal case for falsification in the Fiscal's Office." (Underscoring supplied)

In fact, only these co-owners who are residing in the Philippines were joined as defendants in Civil Case D-7240. But the mention of Pacita's relatives who were residing abroad should have made the trial court aware of the existence of indispensable parties who were not yet impleaded.

Despite this knowledge of the apparent defect in the complaint and in its jurisdiction, the trial court did not take the initiative to implead petitioners as defendants or to order private respondent to do so, contrary to the clear mandate of Rule 3, Sec. 11 of the Rules of Court[46] which provides:

Sec. 11. Misjoinder and non-joinder of parties. -- Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

The foregoing testimony on the existence of other co-owners was a clear signal that indispensable parties had not yet been impleaded. Indeed, this knowledge should have put the private respondent and the trial court on guard. The burden to implead or to order the impleading of indispensable parties is placed on private respondent and on

the trial court, respectively. Since no evidence was presented to prove that petitioners were aware of the civil case filed against Olanday et al., they cannot be faulted for not intervening therein.

In sum, we hold that the nullity of a judgment grounded on lack of jurisdiction may be shown not only by what patently appears on the face of such decision but also by documentary and testimonial evidence found in the records of the case and upon which such judgment is based.

Before ending our discussion on the first issue, we must stress that the then Intermediate Appellate Court and this Court, in affirming the RTC decision in Civil Case No. D-7240 which we here nullify, had not been given the occasion to rule on the issue of the trial court's jurisdiction over the persons of indispensable parties; verily, this question had not been raised before the two appellate courts. The review of civil cases by appellate courts is confined only to the issues raised by the parties. Hence, appellate courts do not have the privilege or the opportunity afforded the trial courts to consider matters beyond the specifically contested issues, e.g., jurisdiction over indispensable parties, as in this case. Such lack of jurisdiction could not have been known by the appellate courts, including this Court, as it was not patent from the documents or submissions filed before them. The issue raised before the then Intermediate Appellate Court and this Court was formulated in this wise: "(t)he validity of private respondent's claim that he is a tenant of the petitioners' fishpond, with security of tenure as such assured under the law, is the basic question presented in this appeal." [47] We underscore the fact that the issue of whether all the indispensable parties had been validly impleaded, if at all, had not been raised at that time. In any event, whether the indispensable parties were actually impleaded and jurisdiction over them was acquired was a factual question for the trial court to determine. Consistent with the basic doctrine that factual findings of lower courts are binding on appellate courts unless covered by the recognized exceptions, [48] appellate courts must be able to rely on the implied affirmation of the trial court that jurisdiction had been acquired over indispensable parties, especially when this was not raised as an issue on appeal. The responsibility for impleading indispensable parties for the exhaustive trial of a case cannot rest on this forum or on the then Intermediate Appellate Court. Indeed, the Decision of this Court affirming the said trial court's decision is captioned only as "Pacita A. Olanday, Maria A. Arellano and Natividad A. Cruz, petitioners, vs. Intermediate Appellate Court and Moises Farnacio, respondents", clearly indicating that petitioners herein had been omitted as indispensable parties in the proceedings before the trial court and before the appellate tribunals. Substantial justice requires that this error be now rectified.

Second Issue: Estoppel and Laches

Apart from holding that there was only one ground to annul a judgment, namely, extrinsic fraud, the appellate court -- using extraneous evidence -- also found that estoppel and laches had set in against petitioners, thereby barring them from asserting lack of jurisdiction over their persons. These "extraneous matters" are stated by the Respondent Court in this wise:

x x x True, indeed, that petitioners were not original parties to the action and that the decision embraces half of the property in dispute belonging to petitioners as co-owners thereof. But they cannot now complain they were denied due process. It will be recalled that the contract of lease was entered with one Cipriano Tandoc on March 4, 1978 for a term of three years, which contract was renewed for another two years up to February 2, 1984. During all the years of the existence of the lease contract, it would be incredulous for petitioners to assert that they never knew of such lease agreement from their three sisters, the defendants herein. Petitioners raised no overt protest against the lease contract executed by their sisters with Cipriano Tandoc in 1978 and renewed in 1982. Petitioners took no direct action to promptly disavow or disaffirm the action taken by their sisters to lease the entire property to Tandoc.

It is likewise unbelievable that during all the years that the subject property (fishpond) is under litigation in Civil Case No. D-7240 from 1984 to 1991, petitioners were not aware that their property is subject of the

controversy. By their continued silence, they have permitted the acts of their sisters in leasing the property and they cannot now be heard, after a prolonged period of time, to denounce such acts as done without their knowledge and consent. The rule of acquiescence by silence has estopped petitioners to deny the reality of the state of things which they made to appear to exist and upon which others have been led to reply. Parties must take the consequences of the position they assume. Sound ethics require that the apparent in its effects and consequences should be as if it were real, and the law properly so regards. (Metro Manila Transit Corporation vs. Morales, 173 SCRA 629, 633).

In Santiago Syjuco, Inc. vs. Castro, 175 SCRA 171, 192, it was held, inter alia:

x x x x x x x x

x x x. Likewise, in Criminal Case No. 16866 for falsification against respondent Farnacio before Branch 3 of the Municipal Trial Court of Dagupan City, witness Juan Bernal testified that the petitioners herein Tomasa Arcelona, Marcelino Arcelona and Ben Arcelona authorized their sisters Natividad Cruz, Corazon Arcelona, Pacita Olanday to lease the fishpond to Cipriano Tandoc. (TSN, pp. 5-6, hearing of August 10, 1987 in Criminal Case No. 16866)."[49]

Petitioners balk at these pronouncements, arguing that in annulment of judgments, "the grounds thereof must be based solely on the records of the case." They contend that "to permit the court's record to be contradicted or varied by evidence dehors would render such records of no avail." Petitioners contend that Respondent Court of Appeals erred in taking into account "the proceedings in Criminal Case No. 16866 to show alleged knowledge of the petitioners herein of the lease of the property to Cipriano Tandoc." [50] Petitioners submit that the bone of contention in this case is "not knowledge of the petitioners of the Lease Contract executed by Pacita Olanday et al. and Cipriano Tandoc, but whether the petitioners knew of the case filed by private respondent against Pacita Olanday et al. involving their common property."

Petitioners stress that Private Respondent Farnacio is "a total stranger" and has absolutely no privity of interest with them because it was Tandoc, not Farnacio, who entered into a lease contract with Olanday, et al. [51]

Petitioners deny any concealment or deception on their part that would constitute estoppel. They contend that in the transfer certificate of title, their names "were specifically mentioned as co-owners of the property on which the private respondent sought to be installed in physical possession as tenant." [52] They aver that Respondent Court of Appeals' finding that they had knowledge of the lease contract "is based on presumption not on clear and convincing evidence." Assuming, according to petitioners, that they can be held in estoppel, it can only be as against Cipriano Tandoc, not private respondent who "was never a party to the lease contract." [53]

Since the judgment is void "insofar as the petitioners are concerned for lack of jurisdiction [over] their persons and for want of due process," and since they "were never given the opportunity to institute any action to protect their interest," petitioners contend that to bar them now by laches and estoppel "will create an unfair and unjust situation." For as petitioners candidly state, they "do not question the pronouncement that private respondent is the tenant of Pacita Olanday et al."; however, they submit that the issue in this case is whether private respondent "is also the tenant of herein petitioners entitled to be placed in physical possession and cultivation of their undetermined share in the property without [petitioners] being made parties in the case." [54]

Private respondent counters that "Pacita Olanday x x x testified that she was authorized to lease the share of x x x petitioners." According to private respondent, while petitioners were in the Philippines, they were informed of the appointment of private respondent as caretaker-tenant of the entire fishpond, and they did not object to such appointment. [55] Further, private respondent contends that petitioners failed to intervene in the case before the writ of execution was granted on "May 5, 1991" despite the "appearance x x x of their counsel, Atty. Marina

Cruz, when the motion for issuance of said writ was heard.” Private respondent adds that he was “impliedly recognized” as a tenant when petitioners “received their corresponding shares [i]n the lease rental of the property from the private respondent, through Olanday, et al. and their counsel, Atty. Marina Cruz.”[56]

As correctly put by petitioners, we hold that Respondent Court of Appeals, in deciding the petition to declare the judgment void, cannot consider extraneous matters to vary what the records bear. In other words, the Court of Appeals cannot annul or declare null the assailed decision with such extraneous matters. The validity or nullity of the said decision must stand or fall on its own face and the evidence on record.

In an action to declare a judgment void because of lack of jurisdiction over the parties or subject matter, only evidence found in the records of the case can justify the annulment of the said judgment. Contrariwise, the nullity of the judgment due to lack of jurisdiction may be proved at most by the evidence on record but never by extraneous evidence. Sen. Vicente J. Francisco aptly explains this in his treatise on the Rules of Court:[57]

The validity of a final judgment may be attacked on the ground that the judgment or order is null and void, because the court had no power or authority to grant the relief or no jurisdiction over the subject matter or over the parties or both. The aggrieved party may attack the validity of the final judgment by a direct action or proceeding in order to annul the same, as certiorari, which is not incidental to, but is the main object of the proceeding. The validity of a final judgment may also be attacked collaterally as when a party files a motion for the execution of the judgment and the adverse party resists the motion by claiming that the court has no authority to pronounce the judgment and that the same is null and void for lack of jurisdiction over the subject matter or over the parties.

In cases of collateral attack, the principles that apply have been stated as follows: ‘The legitimate province of collateral impeachment is void judgments. There and there alone can it meet with any measure of success. Decision after decision bears this import: ‘In every case the field of collateral inquiry is narrowed down to the single issue concerning the void character of the judgment and the assailant is called upon to satisfy the court that such is the fact. To compass his purpose of overthrowing the judgment, it is not enough that he shows a mistaken or erroneous decision or a record disclosing non-jurisdictional irregularities in the proceedings leading up to the judgment. He must go beyond this and show to the court, generally from the fact of the record itself, and not by extraneous evidence that the judgment complained of is utterly void. If he can do that his attack will succeed for the cases leave no doubt respecting the right of a litigant to collaterally impeach a judgment that he can prove to be void.’

The reason for the rule of exclusion of extraneous proof to show that the judgment complained of is utterly void for lack of jurisdiction has been expressed in the following words: ‘The doctrine that the question of jurisdiction is to be determined by the record alone, thereby excluding extraneous proof seems to be the natural unavoidable result of that stamp of authenticity which, from the earliest times, was placed upon the ‘record,’ and which gave it such ‘uncontrollable credit and verity that no plea, proof, or averment could be heard to the contrary.’ x x x Any rule, x x x would be disastrous in its results, since to permit the court’s record to be contradicted or varied by evidence de hors would render such records of no avail and definite sentences would afford but slight protection to the rights of parties once solemnly adjudicated.’”

We should add, however, that where an action for annulment of judgment is grounded on extrinsic fraud, extraneous evidence is admitted. We have held that, although a person need not be a party to the judgment sought to be annulled by reason of extrinsic fraud, he must prove his allegation that the judgment was obtained by the use of fraud and collusion and that he would be adversely affected thereby.[58] Fraud must be extraneous; otherwise, there would be no end to litigation. Extrinsic fraud refers to any fraudulent act committed by a prevailing party outside the trial of the case, whereby the defeated party has been prevented from fully exhibiting his side of the case, because of fraud or deception practiced on him by his opponent.[59] As distinctly defined in *Cosmic Lumber Corporation vs. Court of Appeals, et al.*,[60]

There is extrinsic fraud within the meaning of Sec. 9, par. (2), of B.P. Blg. 129, where it is one the effect of which prevents a party from hearing a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters, not pertaining to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy. In other words, extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case by fraud or deception practiced on him by his opponent. (fn: Makabingkil v. PHHC, No. L-29080, 17 August 1976, 72 SCRA 326, 343-344) Fraud is extrinsic where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority connives at his defeat ; these and similar cases which show that there has never been a real contest in the trial or hearing of the case are reasons for which a new suit may be sustained to set aside and annul the former judgment and open the case for a new and fair hearing. (fn: Id., p. 344 citing U.S. v. Throckmorton, 25 L. Ed. 93, 95)."

In deciding the "petition for annulment of judgment" – which should be a "petition to declare judgment void" – Respondent Court of Appeals should not have considered the following matters which find no support from the records and are thus considered "extraneous": (1) the assumption that petitioners knew of the five-year lease contract with private respondent and the pendency of Civil Case No. D-7240 from 1984 to 1991; and (2) the testimony of Juan Bernal in a separate criminal case before another court concerning the authority granted to Olanday et al. and where petitioners were not parties. The rule is that the nullity of the decision arising from want of jurisdiction and/or due process should appear from the records of the case. And the validity of the judgment cannot be anchored on mere suppositions or speculations, as Respondent Court did.

Equally important, the finding of estoppel and laches by Respondent Court is not supported by the evidence on record. The silence of petitioners can easily be explained by the fact that they were not in the country during the pendency of the subject civil case. Such absence from the country was never rebutted by private respondent. Even in the proceedings antecedent to this case before us now, petitioners were merely represented by their attorney-in-fact.^[61] Moreover, they were not at all impleaded as parties in the judgment sought to be voided. Neither were they properly served summons. The indelible fact is that they were completely ignored.

In any event, we ruled in *Alabang Development Corporation vs. Valenzuela*^[62] that no laches attach when the judgment is null and void for want of jurisdiction:

"The herein respondents attribute laches to the petitioners for not appealing from the order of the lower court denying their motion to intervene and motion for new trial hence allowing the said order/decision to become final. There is no laches nor finality of any decision to speak of since the decision under question is herein pronounced null and void for having been rendered without jurisdiction. Prescinding therefrom, as admitted by themselves in their comment, the judgment of reconstitution is 'ineffective' against the owners of lands covered thereby who were not joined as parties in the proceeding. As the Court ruled in *Bernal* case on the matter of intervention [fn: 93 SCRA at pp. 247, 248] 'a valid judgment cannot even be rendered where there is want of indispensable parties' such as petitioners who hold subsisting Torrens Title to the properties in question and 'this aspect of the case commands the joinder of indispensable parties to allow them to uphold their interests based upon the Torrens titles they hold overrides any question of later intervention.' Petitioners have precisely availed of the proper, speedy and adequate remedy of the present special civil action of certiorari and prohibition to annul and set aside for want of jurisdiction the decision and all proceedings of respondent judge."

On the other hand, the doctrine of estoppel is predicated on and finds its roots in equity which, broadly defined, is justice according to natural law and right. It is a principle intended to prevent a clear case of injustice. The term is

hardly separable from a waiver of right. Estoppel, like laches, must be intentional and unequivocal, for when misapplied, it can easily become a most convenient and effective means of injustice. Estoppel is a principle that, as a rule, can be invoked only in highly exceptional and legitimate cases.[63] In *Cruz vs. Court of Appeals*,[64] we reiterated the requisites of estoppel:

In *Kalalo vs. Luz*, [fn: 34 SCRA 337] We held that the essential elements of estoppel in respect to the party claiming it are: (a) lack of knowledge and of the means of knowledge of the truth as the facts in question; (b) reliance, in good faith, upon the conduct or statements of the party to be estopped; and (c) action or inaction based thereon of such character as to change the position or status of the party claiming the estoppel, to his injury, detriment, or prejudice.”

The herein facts ineluctably show the absence of the first element in this case. Inasmuch as there is no proof that petitioners had knowledge of the pending tenancy case filed by private respondent, it is only fair that they should not be held in estoppel for failing to intervene in and to question the jurisdiction of the trial court in Civil Case No. D-7240. Thus, private respondent may not say that he was misled into believing that petitioners knew of the lease contract and of the litigation of Civil Case No. D-7240. Undisputedly, from the evidence on record, petitioners had no such knowledge.

Petitioners’ receipt of lease rentals cannot be used as proof of recognition of private respondent as a caretaker-tenant. This issue was not raised in the lower court and is being alleged for the first time before us. Well-settled is the doctrine that questions not raised in the lower courts cannot be raised for the first time on appeal.[65]

Third Issue: Intervention as a Remedy of Petitioners

Petitioners contend that Respondent Court of Appeals erred when it ruled that their only remedy was intervention during the execution stage of Civil Case No. D-7240. Inasmuch as “annulment of judgment could be made either collaterally or directly,” petitioners insist that their resort to “direct action in annulling the Decision of the lower court should not be taken against them.”[66] Moreover, petitioners argue that “in proceedings for execution of a final decision or judgment, it is the ministerial duty of the court of origin to issue the writ.”[67] Petitioners add that because their action would result in the “modification, alteration, and annulment of the judgment, the specific provision of law that annulment of judgment of the Regional Trial Court is within the exclusive jurisdiction of the Court of Appeals should prevail.”[68]

Private respondent counters that petitioners deliberately did not intervene “to afford them opportunity to question, as they now question, the validity of any decision to be rendered in said case, x x x in the event of an adverse decision.”[69]

We hold that intervention is not the only remedy to assail a void final judgment. There is no procedural rule prescribing that petitioners’ intervention in the hearing for the issuance of a writ is the only way to question a void final judgment. As already stated, petitioners were not aware of such hearing. Besides, as already discussed, a direct action is available in assailing final judgments grounded on extrinsic fraud, while a direct or a collateral action may be used to show lack of jurisdiction.

The assailed Decision of Respondent Court of Appeals cites certain cases allowing intervention as follows:[70]

“A case in which an execution has been issued is regarded as still pending so that all proceedings in the execution are proceedings in the suit. There is no question that the court which rendered the judgment has a general supervisory control over its process of execution and this power carries with it the right to determine every question of fact and law which may be involved in the execution. (*Suson vs. Court of Appeals*, 172 SCRA 70, 75,

citing Paman vs. Severis, 115 SCRA 709; Seavan Carrier vs. GTI Sportswear, 137 SCRA 580)”

These cases, which require intervention of parties who may be adversely affected by the decision, are not applicable. In the cited *Suson vs. Court of Appeals*,^[71] the parties, though not impleaded, knew of the case and were in fact directed by the trial court to intervene, but they refused to do so. These particular facts are absent in the instant case where, to repeat, petitioners were abroad when Civil Case D-7240 was prosecuted.

In any event, as earlier pointed out, jurisprudence upholds the soundness of an independent action to declare as null and void a judgment rendered without jurisdiction as in this case. In *Leonor vs. Court of Appeals*, ^[72] Petitioner Virginia A. Leonor, through a “petition for certiorari, prohibition and mandamus x x x sought the nullification of both the decision dated December 14, 1992 and the order dated February 24, 1993 of the trial court for having been issued in excess of jurisdiction and/or with grave abuse of discretion.”^[73] We held in that case that:^[74]

A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void: ‘x x x it 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.’”

WHEREFORE, the petition for certiorari is GRANTED. The Decision of Respondent Court of Appeals is hereby REVERSED and SET ASIDE. The decisions in Civil Case No. D-7240, AC- G.R. SP-05237-CAR and G.R. No. L-71217 are ANNULLED and SET ASIDE for lack of jurisdiction. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 64-70.

[2] Third Division Composed of J. Luis I. Victor, ponente, and JJ. Santiago M. Kapunan (now Associate Justice of this Court) and segundino E. Chua, concurring.

[3] Rollo, p. 72

[4] *Ibid.*, p. 10

[5] *Ibid.*, p. 235.

[6] *Ibid.*, p. 77.

[7] *Ibid.*, p. 85

[8] Fourth Special Cases Division composed of J. Vicente V. Mendoza (now Associate Justice of this Court), ponente, and JJ. Edgardo L. Paras and Luis A. Javellana, concurring

[9] 189 SCRA 175, August 30, 1990.

[10] *Ibid.*, pp. 90-103

[11] *Ibid.*, p. 104.

[12] *Ibid.*, p. 177; original text in upper case

[13] *Ibid.*, pp. 17 & 18; some words are in the upper case in the case in the petition.

- [14] Ibid., pp. 18 & 181.
- [15] Ibid., pp. 20 & 183.
- [16] Ibid., p. 31; original text is underlined
- [17] Ibid., p. 27
- [18] Ibid., pp. 30-31 & 197-198
- [19] Ibid., pp. 66-67.
- [20] 164 SCRA 160, August 8, 1988, per Sarmiento, J.
- [21] 178 SCRA 178, September 29, 1989, per Cortes, J.
- [22] Islamic Da' Wah Council of the Philippines vs. Court of Appeals, *supra*, at p. 184.
- [23] 72 SCRA 326, August 17, 1976, per Antonio, J.
- [24] at p. 343.
- [25] Cited in this case are provisions of the Rules of Court Prior to the Amendments thereto which took effect on July 1, 1997.
- [26] Santiago vs. Ceniza, 5 SCRA 494, 496, June 30, 1962, per Paredes J. cited in Mercado vs. Ubay, 187 SCRA 719, 725, July 24, 1990, per Medialdea, J. See also the cases of Regidor vs. Court of Appeals, 219 SCRA 530, March 5, 1993, per Nocon, J. and Ybañez vs. Court of Appeals, 253 SCRA 540, February 9, 1996, per Francisco, J.
- [27] 253 SCRA 740, 747-748, February 20, 1996, per Panganiban, J.
- [28] 256 SCRA 69, 82, April 2, 1996, per Panganiban, J., citing Banco Español - Filipino vs. Palanca, 37 Phil. 921, 949, March 26, 1918.
- [29] Echevarria vs. Parsons Hardware Co., 51 Phil. 980, 987, April 2, 1927.
- [30] Planas vs. Collector of Internal Revenue, 3 SCRA 395, 398, October 31, 1961.
- [31] Borlasa vs. Polistico, 47 Phil. 345, 347, January 28, 1925.
- [32] People et al. vs. Hon. Rodriguez, et al. 106 Phil 325, 327, September 30, 1959, per Bengzon, J.
- [33] Lim Tanhu vs. Ramolete, 66 SCRA 425, 448, August 29, 1975; Director of Lands vs. Court of Appeals, 93 SCRA 238, 248, September 25, 1979; and Alabang Development vs. Valenzuela, 116 SCRA 261, 277, August 30, 1982.
- [34] 251 SCRA 70, 75, December 8, 1995 per Vitug, J.
- [35] Comments on the Rules of Court, Moran, Volume 1, 1970 edition, pp. 182-183 citing cases of "Palarca v. Baguisi, 38 Phil. 177. See also Pobre v. Blanco, 17 Phil. 156; Araneta v. Montelibano, 14 Phil. 117.
- [36] 67 A C.J.S. 646-649.**
- [37] Servicewide Specialist, Incorporated vs. Court of Appeals, *supra*.
- [38] Matters adjudged in a cause do not prejudice those who were not parties to it. (Black's Law Dictionary, 5th

ed., p. 1178).

[39] *Filamer Christian Institutes vs. Court of appeals, et al.*, 190 SCRA 485, 492, March 21, 1989, per Fernan C.J. citing *Church Assistance Program vs. Sibulo*, G.R. No. 76552, 171SCRA 408, March 21, 1989.

[40] *Am Jur 2d* p. 819

[41] Trial court's decision , p.1; Rollo, p.82.

[42] That portion of the complaint reads:

"2. That the subject of this complaint is a parcel of fishpond located at Lomboy District, Dagupan City, which is more particularly describe and bounded as follows:

"A parcel of land (LOT No.3321 of the Cadastral Survey of Dagupan), situated in the City of Dagupan. Bounded from point 1 to 5 by Lot No. 3316, 5 to 8 by Lot 3317, 8 to 10 and 33 to Lot 3267, 20 to 21 by Lot 3311, 21 to 22 by Lot o. 3310, 22to 23 by Lot No. 3309, 23 to 24 by Lot No. 3308, 24 to 25 by Lot No. 3307, 25 to 26 by Lot No. 3306, 26 to 27 by Lot no. 3305, 27 to by Lot No. 3314, and 45 to 1 by Lot No. 3326. xxx containing an area of seventy two thousand seventy two thousand seven hundred and fifty two square meters (72, 752), more or less."

[43] Rollo, pp. 74-75.

[44] *Ibid.*, p. 235.

[45] *Ibid.*, p. 82.

[46] Retained under the 1997 Rules of Civil Procedure.

[47] *Olanday vs. Intermediate Appellate Court*, *supra*, at p. 176.

[48] *Gamaliel C. Villanueva, et al. vs. Court of Appeals, et al.*, G. R. No. 107624, January 28, 1997, p. 495 per Panganiban, J.

[49] Rollo, pp. 67-69.

[50] *Ibid.*, pp. 32-33.

[51] *Ibid.*, p. 34.

[52] *Ibid.*, p. 42

[53] *Ibid.*, p. 43.53

[54] *Ibid.*, pp. 45-49.

[55] *Ibid.*, p. 235

[56] *Ibid.*, p. 238.

[57] *The Revised Rules of Court in the Philippines, Civil Procedure, Rules 20-39, Volume II*, 1966 edition, pp. 547-548.

[58] *Top Management Programs Corp. vs. Court of Appeals*, 222 SCRA 763, 769, May 28, 1993, per Nocon, J.

[59] *Santos vs. Court of Appeals*, 224 SCRA 673, 681, July 21, 1993, per Nocon, J.

[60] G.R. No. 114311, November 29, 1996, per Bellosillo, J.

[61] The pertinent portion of this legal representation as found by Respondent Court of Appeals reads:

“Now come the petitioners Marcelino Arcelona, Tomasa Arcelona and Ruth Arcelona, represented by their attorney-in-fact Erlinda Pile, seeking to annul the aforesaid judgment of the Regional Trial Court, Branch XI, Dagupan City in Civil Case No. D-7240.”

[62] 116 SCRA 261, 276-277, August 30, 1982, per Teehankee, J.

[63] *La Naval Drug Corporation vs. Court of Appeals*, 236 SCRA 78, 87-88, August 31, 1994, per Vitug, J.

[64] 201 SCRA 495, 505, September 11, 1991, per Davide, Jr., J.

[65] *Mendoza vs. Court of Appeals*, G.R. No. 116216, June 30, 1997, per Panganiban, J.; *Lopez Realty, Inc. vs. Fontecha*, 247 SCRA 183, 191, August 11, 1995, per Puno, J. citing the case of *Anchuelo vs. IAC*, G.R. No. 71391, January 29, 1987, 147 SCRA 434, per Gutierrez, Jr. J.

[66] *Rollo*, p. 37.

[67] *Ibid.*, p. 38.

[68] *Ibid.*, p. 39; underscoring omitted.

[69] *Ibid.*, p. 236.

[70] *Ibid.*, p. 69.

[71] *Supra*, April 12, 1989 per Padilla, J.

[72] 256 SCRA 69, 82, April 2, 1996, per Panganiban, J.

[73] *Supra*, p. 73.

[74] *Supra*, p. 82.

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