

**NICOLAS VELOSO, JR., CONCEPCION VELOSO PATALINGHUG,
EDUARDO VELOSO, LIGAYA VELOSO ROA, RAFAEL VELOSO,
EMERENCIANA VELOSO CABIGON, DOMINGO VELOSO AND
EMMANUEL VELOSO, PETITIONERS...**

G.R. No. 116680. August 28, 1996

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a petition for review on certiorari through which petitioners seek a reversal of the decision of respondent Court of Appeals dismissing their petition to annul judgment rendered by the Regional Trial Court of Baybay, Leyte, Branch 14, in Civil Case No. B-1043, for lack of merit. Petitioners claim that the questioned decision of the trial court is inherently flawed because the issues raised therein had already been resolved earlier in another case involving the same parties and subject matter, and that a trial court has no power to countermand a decision of a co-equal court.

There is however much more to their pious avowals than meets the eye.

On 12 September 1988 respondents Corsini Miraflor Avellana, Aureo Peñalosa Miraflor, Eddie Peñalosa Miraflor and Douglas Peñalosa Miraflor filed a complaint for quieting of title with damages against Nicolas Veloso, Sr. and petitioners Nicolas Veloso, Jr., Concepcion Veloso Patalinghug, Eduardo Veloso, Ligaya Veloso Roa, Rafael Veloso, Emerenciana Veloso Cabigon, Domingo Veloso and Emmanuel Veloso before the Regional Trial Court of Baybay, Leyte, docketed as Civil Case No. B-1043.[1] The subject matter of the complaint was Lot No. 8422-F covered by TCT No. 22393 in the name of Crispina Peñalosa Miraflor, deceased mother of respondents.

On 31 August 1990 the trial court rendered judgment (a) finding TCT No. T-22393 authentic, valid, indefeasible and entitled to all faith and credence under Act 496; (b) declaring respondents absolute co-owners in fee simple of Lot No. 8422-F; (c) directing petitioners or anyone of them in possession of Lot No. 8422-F to deliver to respondents the physical and material possession thereof together with all the improvements thereon; and, (d) ordering petitioners in solidum to pay respondents P5,000.00 as attorney's fees and P2,000.00 as reimbursement for litigation expenses.[2]

Petitioners elevated the case to respondent Court of Appeals which on 28 May 1992 affirmed the decision of the trial court.[3]

Petitioners then came to us.[4] On 12 October 1992 however we denied the petition as the issues raised therein were essentially factual. There was no showing that the findings of fact of respondent court were not supported by substantial evidence and that it committed any reversible error in its judgment.[5] On 15 March 1993 an order for the entry of judgment was issued.[6]

On 20 September 1993 petitioners, undaunted by their reverses, sought annulment of the decision of the trial court before respondent Court of Appeals.

On 29 July 1994 respondent court likewise ruled against petitioners as it found that the controversy had already been settled by this Court and that the contention that the trial court did not have "any power or authority to amend, alter or modify the decision of a co-equal court, the then Court of First Instance of Leyte, Br. III and Br. VIII," should have been raised in the previous proceedings.[7]

The main issue is whether respondent court erred in refusing to declare the decision of the trial court void for having been rendered allegedly in violation of the doctrines of *res judicata* and the law of the case.

Petitioners rely on the decision of 9 January 1951 in Civil Case No. R-205[8] which has already become final and executory for lack of appeal by any of the parties, and on the decision of 29 July 1969 in Civil Case No. B-122[9] which was affirmed by respondent court on 11 November 1974[10] and executed on 9 July 1975. They allege that those decisions upheld their possession and ownership and of their parents Nicolas Veloso, Sr. and Emerenciana Peñalosa over 3/5 portion of Lot No. 8422, including the 1/5 portion representing the share of Crispina Peñalosa Miraflor (Lot No. 8422-F) which she transferred to her parents by virtue of a deed of sale executed on 4 May 1948. Petitioners thus claim that the trial court had absolutely no jurisdiction to amend, alter or modify those final and executed decisions.

But we find no reversible error committed by respondent court.

In Civil Case No. R-205, the plaintiff therein as administrator of the estate of Filomena Bermoy, great grandmother of respondents, sought recovery of Lot No. 8422 from the children of spouses Pedro de Veyra and Leopolda Valenzona. The trial court however dismissed the complaint on the basis of its finding that Lot No. 8422 no longer formed part of the estate of Bermoy. Prior to her death, Filomena Bermoy sold the land in question to a certain Gonzalo Varron who in turn disposed of it in favor of spouses Pedro de Veyra and Leopolda Valenzona, so that on 2 March 1936 OCT No. 16752 was issued in their name. Lot No. 8422 was later involved in Civil Case No. R-5 for partition among their children. In the decision rendered in that case, Emerenciana P. Veloso, Lourdes P. Bibas, Proculo Peñalosa and Crispina P. Miraflor were declared absolute owners thereof. The trial court however observed that on 4 May 1948 Crispina P. Miraflor disposed of her share and interest in the property in favor of her sister, Emerenciana P. Veloso, and the latter's husband, Nicolas Veloso, Sr.

On the other hand, in Civil Case No. B-122 Nicolas Veloso, et al., filed a complaint for reconveyance of a portion of Lot No. 8422 with partition and damages against Proculo Peñalosa and Lourdes P. Bibas. The trial court rendered judgment thereon against Proculo Peñalosa. But the trial court also observed in passing that the share of Crispina P. Miraflor was already purchased by the Veloso spouses in 1948.

Both decisions were brought by petitioners to the attention of the trial court in Civil Case No. B-1043 which resolved the controversy thus --

Upon the totality of the evidence, the plaintiffs' and the defendants', indicating that what was sold by Crispina P. Miraflor in May 1948 were/was not her share in Lot 8422, denominated as sub-lot 8422-F, are these -- firstly, her Deed of Sale in 1948 does not specifically state that what she was alienating was her ideal share in Lot 8422; on the other hand, it specified/specifies that the subject of her share was her share in the estate of Leopolda Valenzona, her mother, and her share in the estate of Filomena Bermoy, her aunt (grandmother), located in Barrio Caridad, Baybay, Leyte; secondly, in Civil Case R-205, where the Court-appointed administrator of the estate of Filomena Bermoy sought inclusion of Lot 8422 in the estate of the latter, the Court decided that Lot 8422 is not part of said estate, hereat showing that Lot 8422 is different, separate and distinct from said estate of Filomena Bermoy and what was sold by Crispina P. Miraflor belonged to this separate estate; thirdly, the subdivision survey of Lot 8422, which gave way to the delineation of the share of Cristina P. Miraflor as sub-lot 8422-F was not performed in deceit but as a matter of right on the part of a co-owner, at this instance co-owner Crispina Peñalosa Miraflor; fourthly, much as the spouses Nicolas Veloso,

Sr. and Emerenciana Peñalosa resided in Barrio Caridad, Baybay, Leyte or environs, no protest was raised against the subdivision survey, it here stressed that licensed surveyors, as Engineer Besavilla was/is, as a professional has not only his professional ethics but the presumption that he satisfied the requirements of law in the premises when the subdivision survey was performed by him; fifthly, in Civil Case No. 122-R (B-122) which sought the recovery by the plaintiffs Veloso spouses of certain portions of Lot 8422 as a consequence of the subdivision survey, only co-owners Proculo Peñalosa and Lourdes Peñalosa Bibas were impleaded as defendants; conversely, Crispina Peñalosa Miraflor was not made a defendant, such that the decision was only against Proculo Peñalosa, and did not even include co-defendant Lourdes Peñalosa Bibas, and recovered from Proculo Peñalosa was only some 5,455.4 square meters of Lot 8422; sixthly, plaintiffs' evidence, that before the death in 1975 of Crispina P. Miraflor her sister Emerenciana and the latter's husband Nicolas Veloso, Sr. rendered shares of the produce of her (Crispina's) share in Lot 8422, is buttressed (Exhibits "T", "T-1-a-1", "T-1-a-2", "T-1-b", "U", "U-1", "V", "V-1-a"), and these are not adequately rebutted by the defendants; and, seventhly, in actions for quieting of title, the plaintiff(s) need not be in possession of the property involved (Article 477, Civil Code) -- if plaintiffs are not in possession of Lot 8422-F even only constructively.[11]

As aforestated, the above ruling of the trial court was affirmed both by respondent court and this Court.

Now under the guise of a petition for annulment of judgment, petitioners in effect are seeking a second cycle of review regarding a subject matter which has already been fully and fairly adjudicated. That cannot be allowed.

Contrary to the circuitous assertion of petitioners that the rulings in Civil Cases Nos. R-205 and B-122 constitute res judicata or the law of the case to Civil Case No. B-1043, it is the holding in the latter case which is now a bar to the present proceeding under the same doctrines invoked by them. Material facts or questions which were in issue in a former action and were there admitted or judicially determined are conclusively settled by a judgment rendered therein and that such facts or questions become res judicata and may not again be litigated in a subsequent action between the same parties or their privies, regardless of the form the issue may take in the subsequent action, whether the subsequent action involves the same or a different form of proceeding, or whether the second action is upon the same or a different cause of action, subject matter, claim or demand, as the earlier action. In such cases, it is also immaterial that the two actions are based on different grounds, or tried on different theories, or instituted for different purposes, and seek different reliefs.[12] By the same token, whatever is once irrevocably established as the controlling legal principle or decision continues to be the law of the case between the same parties in the same case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[13]

WHEREFORE, the petition is DENIED. The decision of respondent Court of Appeals dated 29 July 1994 is AFFIRMED.

SO ORDERED.

Padilla (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Raffled to Br. 14 presided over by Judge Teofilo R. Redubla.

[2] Records, pp. 322-323.

[3] Penned by Justice Jorge S. Imperial, concurred in by Justices Serafin E. Camilon and Cancio C. Garcia; Records, p. 345.

[4] G.R. No. 105947, assigned to the Second Division.

[5] Records, p. 334.

[6] Ibid.

[7] Penned by Justice Ramon Mabutas Jr., concurred in by Justices Arturo B. Buena and Jainal D. Rasul; Rollo, p. 46.

[8] Penned by Judge Arsenio Solidum of the Court of First Instance of Baybay, Leyte, Br. III; Rollo, p. 104.

[9] Penned by Judge Bernardo Ll. Salas of the Court of First Instance of Baybay, Leyte, Br. VIII (now Associate Justice of the Court of Appeals); Id., p. 123.

[10] Penned by Justice Sixto A. Domondon, concurred in by Justices Hermogenes Concepcion, Jr. and Efren I. Plana; Id., p. 134.

[11] Records, pp. 321-322.

[12] Francisco, Vicente J., The Revised Rules of Court in the Philippines, Vol. II, p. 876; Widows and Orphans Association, Inc. v. Court of Appeals, G.R. No. 91797, 7 August 1992, 212 SCRA 360; Gutierrez v. Court of Appeals, G.R. No. 82475, 28 January 1991, 193 SCRA 437; Amberti v. Court of appeals, G.R. No. 79981, 2 April 1991, 195 SCRA 659.

[13] Tabaco v. Court of Appeals, G.R. No. 100981, 28 December 1994, 239 SCRA 485.

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