

FORTUNATO MILLARE, ET AL., PLAINTIFFS. JOSE CARIFTO AND FELIX TABOR, CROSS-CLAIM PLAINTIFFS AND APPELLEES, VS. ISIDRO MILLARE, ET AL., DEFENDANTS. MARCELA TABOR, CROSS-CLAIM DEF...

G. R. No. 12205. September 30, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

Plaintiffs (nine in number, hereinafter called Millare-Ballena) filed Civil Case No. 94 in the Court of First Instance of Abra, claiming ownership over eight (8) parcels of land. Originally, there were two groups of defendants, which for convenience we may designate, the first group as Millare-Lazo and the second, composed of husband and wife, as Adame-Tabor. The complaint seeks recovery of parcels 2, 3, 4, 5, 6, 7 and 8 from Millare-Lazo and of parcel 1 from Adame-Tabor, with prayer for damages and costs.

Later, upon motion of defendants Adame-Tabor who claimed parcel 1, two other individuals, to be referred to as Cariño-Tabor, were included as additional defendants, because they too claimed ownership of this lot No. 1. Upon being impleaded, Cariño-Tabor filed a cross-claim against Adame-Tabor. Hence, with respect to this Parcel 1, there was a three-cornered controversy among the plaintiffs Millare-Ballena, the defendants Adame-Tabor, and the additional defendants Cariño-Tabor.

After due trial, the lower court rendered judgment dismissing the complaint, confirming the title of defendant Flora Lazo over Parcels 2, 3, 4, 5, 6, 7, and 8, and affirming the claim of defendants Cariño-Tabor over Parcel 1. Plaintiffs Millare-Ballena appealed from this decision dismissing the complaint to the Court of Appeals, and there the appeal was dismissed on July 9, 1958, for failure to pay the docket fee and the estimated cost of printing of the record on appeal. Final judgment was entered on August 16, 1958 and the record was remanded to the lower court on October 21, 1958 (See certification of the Deputy Clerk of Court at Large of the Court of Appeals dated 1 July 22, 1959). Defendants Adame-Tabor, or specifically, defendant Marcela Tabor, appealed from the portion of the decision finding the other defendants Cariño-Tabor entitled to Parcel 1 and ordering appellant Marcela Tabor to vacate the same and to pay Cariño-Tabor (the latter substituted by his heirs upon his death during the course of the proceedings) the sum of P9,760.00 and the additional sum of P800.00 per year from 1956 until she finally vacates the land, plus the sum of P300.00 as damages. This appeal of Marcela Tabor was taken directly to this Court, wherein appellant raises only a question of law, contained in her single assignment of error, to wit: "THE LOWER COURT ERRED IN NOT CONSIDERING THE EVIDENCE IN SUPPORT OF THE CROSS-COMPLAINT OF MARCELA TABOR"..

This sole assignment of error is undoubtedly directed against the finding of the lower court as follows:

"In view hereof, the Court holds that there is no need of analyzing and evaluating the evidence presented by Marcela Tabor in support of her claim in answer to the cross-claim, Marcela Tabor is now estopped from questioning the validity of the sale in favor of Jose Cariño and Felix Tabor. Pio Adame, having in the words of

the Court of Appeals 'eschewed his share in the land,' the whole parcel 1 belongs now to Jose Cariño and Felix Tabor,"

The basis of the legal conclusion of the trial court is Case No. 35 of the same Court of First Instance of Abra covering the same Parcel 1 and between the same parties. The facts of this case, as they appear in the appealed decision, are briefly as follows:

Jose Cariño and Felix Tabor filed a complaint against Pio Adame for the partition of the same Parcel I, alleging that the three had purchased the land from one Francisca Flores and that Adame later refused to give plaintiffs their share in the produce of the land. Adame, in his answer, disclaimed any interest in the land and denied that he had bought the land with plaintiffs. Shortly thereafter, Adame's wife, Marcela Tabor, filed a complaint in intervention claiming the land as her own for having acquired it from Francisca Flores by way of donation inter vivos and impugning the deed of sale in favor of Cariño and Tabor as fraudulent and fictitious and, therefore, null and void. Upon these pleadings, the case went to trial. After the hearing, during which evidence both testimonial and documentary was presented by both parties in support of their respective contentions, the trial court rendered judgment expressly finding as satisfactorily proven the following facts:

(a)

That Francisca Flores, the undisputed owner of the land, sold the same absolutely and irrevocably in favor of Jose Cariño, Felix Tabor and Pio Adame for P300.00 by virtue of a public document Exh. 3 executed on June 21, 1937 and registered in the Register of Deeds on August 16, 1939;

(b)

That since the execution of the deed of sale, the purchasers took possession of the land and divided its produce equally up to 1940;

(c)

That in 1941, Pio Adame took advantage of the chaotic condition during the Japanese occupation and refused to give participation to his co-owners alleging that the land had been donated to his wife, Marcela Tabor, by Francisca Flores;

(d)

That in 1938, Jose Cariño declared the land in his name for land tax purposes (Exh. 2) although later he included the name of Felix Tabor (Exh. 2-a), but excluding Pio Adame for the reason stated in (c);

(e)

That Cariño and Tabor had been paying the land taxes as evidenced by Exhs. 3 to 3-e; .

(f)

That on May 10, 1940, that is, three (3) years after the execution of the deed of sale Exh. 1, Francisca Flores donated the land to Marcela Tabor for services. rendered Exh. "A";

(g)

That Marcela Tabor also declared the same land in her name and had been paying the land taxes since April, 1943 (Exhs. B, C to C-3);

(h)

That at the time of the execution of Exh. 1, Francisca Flores was not blind; and

(i)

That she died in March, 1943.

Upon these findings and after declaring that the deed of sale Exh. 1 in favor of Carino, Tabor and Adame is not void ab initio nor voidable and that since Francisca Flores was no longer the owner at the time of the alleged donation, Marcela Tabor acquired no right over the land, the trial court rendered judgement the dispositive part of which reads as follows:

"EN VIRTUD DE TODO LO EXPUESTO, el Juzgado dicta decision en este asunto absolviendo de la demanda de terceria a Jose Cariño y Felix Tabor, o desistiendo de piano las pretensiones de la demandante tercerista Marcela Tabor y condenando a esta a pagar las costas del juicio.

"ASI SE ORDERNA.

"Bangued, Abra, 27 de Octubre de 1948."

From this judgment Marcela Tabor appealed to the Court of Appeals, which court, after reviewing the evidence, came to the same conclusion, holding that "the deed of sale in question is valid and subsisting"; that "there is no merit to appellants' motion for new trial" and that "the affidavit, Exhibit E, (upon which reliance is urged in this present appeal) cannot be admitted in evidence"; and accordingly rendered judgment, the dispositive part of which is as follows:

"WHEREFORE, finding no error in the judgment appealed from, the same is hereby affirmed, with costs against the intervenor appellant Marcela Tabor. "it is so ordered."

In view of these previous decisions, the trial court, in this present case, declared in effect that the matter of the validity of the deed of sale in favor of appellees Cariño-Tabor is already res adjudicata and Marcela Tabor is now estopped from questioning the same.

This is the supposed error which appellant now contends the lower court has committed. Her submission is that the abovequoted dispositive portions of the decisions of the trial court and the Court of Appeals in Case No. 35 did not have any reference to the deed of sale at all, and since only the dispositive part or fallo in a decision is what constitutes "judgment", the judicial pronouncements made elsewhere in the previous decisions are not conclusive. In support of this contention, appellant cited the cases of Government vs. Ramon y Vasquez, et al. (73 Phil., 669) and Contreras, et al. vs. Felix, et al. (78 Phil., 570).

The statements "the judgment or fallo is found in the dispositive part of the decision" (Ramon y Vasquez case) and "there is a distinction between the findings and conclusions of a court and its judgment—as expressed in the dispositive part, so called, of the decision" (Contreras case) are correct when considered in the light of the facts of those cases or in cases of similar facts. But they cannot be lifted out of context and applied as inflexible doctrines in all situations. In fact a reading of those decisions will reveal their limited application; the Ramon case, to cases where the dispositive part is not ambiguous or is a complete adjudication by itself, and the Contreras case, to "lapses, findings, loose statements and generalities which do not bear on the issues or are apparently opposed to the otherwise sound and considered result reached by the court as expressed in the dispositive part, so called, of the decision".

The dispositive parts of the decisions of both courts, in Case No. 35, while not ambiguous, are, by themselves alone, far from being complete and final adjudications of the issues involved. The findings and conclusions contained in the body of the decisions (that the deed of sale in favor of Carino-Tabor was neither void ab-initio nor voidable, but valid and subsisting and that Marcela Tabor did not acquire any right over the land) are, not only not opposed to the result reached by the court but precisely the very basis thereof, the very ratio decidendi of the

judgment dismissing the complaint in intervention of Marcela Tabor, and of the affirmance by the appellate court of that appealed judgment. Appellant's citations of authorities are, therefore, inapplicable.

On October 1, 1957, a motion for contempt was filed in this Court by appellant Marcela Tabor charging defendants-appellees Jose Cariño, Felix Tabor's widow, Gabina Terrenal, and defendant Flora Lazo with having committed an abuse of, or an unlawful interference with, the process or proceedings of a court (Section 3 [c] of Rule 64) by selling or otherwise disposing of the land in question pending this appeal. There being no attachment, injunction or receivership issued with respect to the land and in view of the conclusion reached on the merits of the case, we see no reason to declare the respondents guilty of contempt. The petition is denied.

The appealed decision being in accordance with law, the same is affirmed, with costs against the appellant. It is so ordered.

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

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