

FLORENCIA ANURAN, PLAINTIFF AND APPELLEE, VS. ANA AQUINO AND RUFINA ORTIZ, ADMINISTRATRICES OF THE INTESTATE ESTATE OF QUITERIA ORTIZ, DEFENDANTS. ANA AQUINO, APPELLANT.

G.R. No. 12397. April 02, 1918

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record in this case clearly discloses that the plaintiff, Florencia Anuran, is the widow of Ambrosio Aquino, deceased, to whose estate the property described in the complaint belongs; that the defendant, Ana Aquino, is the natural child of a sister of Ambrosio Aquino, deceased ; that on the death of Ambrosio Aquino, one Norberto Capiña was appointed administrator of his intestate estate, at the instance of Ana Aquino, the natural child of his sister; that in the course of the administration proceedings Ana Aquino, acting in collusion with the administrator, fraudulently represented to the court that Ambrosio Aquino had died intestate, leaving no heirs other than Ana Aquino, a daughter of his deceased sister; that at the time when these representations were made, both Ana Aquino and the administrator well knew that the plaintiff, Florencia Anuran, was the surviving spouse of Ambrosio Aquino, deceased, and that Ana Aquino was not a legitimate but a natural daughter of the deceased sister of Ambrosio Aquino; that, without notice to the widow, Ana Aquino, acting in collusion with the administrator appointed at her instance, fraudulently procured the entry of an order in the administration proceedings dated March 12, 1912, authorizing and approving the delivery by the administrator of all property of the estate to the alleged sole heir, Ana Aquino, the defendant in this suit, and that the motion of the administrator on which this order was based was supported by the affidavit of Ana Aquino, setting forth the false and misleading statement of the alleged facts as hereinbefore indicated.

The widow, who was not a party of record in the administration proceedings, did not discover that this order had been entered until about the 14th day of February, 1914, when she promptly entered her appearance in the administration proceedings and moved that the order be set aside, and that she be declared the sole heir of the deceased, who, as she alleged, had died without leaving either ascendants, or descendants, or collateral relatives entitled to share in the estate. The court declined to entertain this motion on the ground that the alleged fraudulent order had been entered more than six months prior to the date of the motion, so that under the provisions of section 113 of the Code of Civil Procedure, he had no jurisdiction to entertain the motion to set it aside.

Thereafter the widow promptly instituted this separate action, wherein the trial court after declaring the order null and void, in that it had been procured by fraudulent collusion between the defendant and the administrator, gave judgment in favor of the plaintiff and against the defendant Ana Aquino for the possession of the lands and other property turned over to the latter by the administrator, and for damages for their detention.

The facts upon which the trial judge based his judgment are fully sustained by the evidence of record, and clearly entitle the plaintiff to the relief granted her.

The only ruling upon the facts by the trial judge as to which there is any real question at this time is his finding that the defendant, Ana Aquino, is a natural and not a legitimate daughter of a deceased sister of Ambrosio Aquino. This fact was supported by oral evidence, corroborated by certified copies of the entries in the records made at the time of the issuance of her birth and marriage certificate, both of which disclose that she is the natural daughter of her mother by an unknown father. In the absence of any showing to the contrary this evidence is amply sufficient to sustain the finding that she is a natural and not a legitimate daughter of her mother.

In the light of these facts, there is not and cannot be any substantial question as to the right of the widow to take the estate of her deceased husband as his sole heir under the provisions of articles 943 and 952 of the Civil Code. These articles are as follows:

"A natural or legitimized child has no right to succeed ab intestate the legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives inherit from the natural or legitimated child."

"In the absence of brothers or sisters and of nephews, children, whether of the whole blood or not, of the same surviving spouse, if not separated by a final decree of divorce, shall succeed to the entire estate of the deceased."

We are not much impressed by the various formal and procedural objections urged by the appellant to the proceedings had in the court below.

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 the very matter of 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; and fraudulent collusion between an administrator and a third person resulting in an order or judgment whereby an interested person is unjustly deprived of his rights in or to the estate under administration, has always been recognized as a sufficient ground for the grant of relief from the order or judgment thus fraudulently procured. (23 Cyc, 1022, 1025, 1027, and numerous cases there cited.)

As to the claim that the question of title to a part of the property described in the complaint is *res adjudicata*, it is only necessary to indicate that in the present case the plaintiff bases her right to this property upon her statutory right to inherit the estate of her husband (article 952, Civil Code), whereas the judgment relied upon in support of the plea of *res adjudicata*, was merely a judicial declaration that a part of this property belonged to the estate of the deceased husband of the plaintiff, and that this part of the estate was not, as plaintiff then contended, her separate property. In the present action plaintiff wholly abandons her contentions in the former proceedings, and claims title by inheritance from her husband, accepting and relying upon the former ruling whereby the land then in question was judicially declared to be a part of his estate.

As to the contention of the appellant touching the prescription of this action, it is a sufficient answer to say that the evidence clearly discloses that it was instituted promptly and without unreasonable delay after the discovery of the fraud perpetrated by the defendant, acting in collusion with the administrator, and within less than three years from the date of the entry of the order. Section 43 of the Code of Civil Procedure provides that "An action for relief on the ground of fraud" must be brought within four years after the right of action accrues, "but the right of action in such cases shall not be deemed to have accrued until the discovery of the fraud."

Appellant contends that the legality and validity of the order entered in the administration proceedings is *res adjudicata*, plaintiff's motion to have it vacated on the ground of fraud having been denied and no appeal having been taken from the order denying the motion. It appears, however, that the motion to dismiss was denied on the ground that under the provisions of section 113 of the Code of Civil Procedure, the court had no jurisdiction to

grant relief from the order upon a motion in the original proceedings, submitted more than "six months after the order was taken." If that application for relief was properly denied on the grounds indicated, the dismissal of the motion cannot be relied upon to sustain a contention that the question of the validity and legality of the original order is *res adjudicata*. It becomes important, therefore, to determine the question as to the power of the courts in this jurisdiction to grant relief from the effect of judgments and orders upon motion entered in the proceedings wherein such judgments or orders are entered when the ground of the motion is alleged fraud in their procurement.

In the case of *Arnedo vs. Llorente and Liongsen* (18 Phil. Rep., 257), we held that in this jurisdiction, wherein there is no term system of court sessions as that system is understood in England and the United States, the courts have inherent plenary power over their own judgments until they become final in the sense that they are unappealable and subject to execution as of right at the instance of the prevailing party; but that thereafter no court has inherent power to alter, amend or vacate such a judgment in order to correct errors of law or fact, other than mere clerical errors or defects as a result of which the judgment as entered fails to set forth the judgment which was actually rendered.

This ruling is substantially identical with the prevailing rule in most English and American jurisdictions, except only as to the duration of the period within which the courts retain their plenary control in the premises, which in those jurisdictions closes with the end of the term at which the judgment is rendered.

At the common law there were some apparent exceptions to the universality of this rule and more or less modified by statute, these apparent exceptions have been carried into most American jurisdictions, and in part, at least, have been incorporated into our own judiciary system, which was substantially modelled upon English and American prototypes. Speaking broadly, these apparent exceptions were limited to cases wherein judgments were vacated on the ground that they were void because of lack of jurisdiction or irregularity in their entry apparent on the face of the record, or because vitiated by fraud. In addition to the apparent exceptions of this kind limited to cases wherein the court exercised its inherent power to vacate void judgments, the authority of the courts over regular judgments has been extended in a number of specified cases by statutory provisions such as those contained in section 113 of our Code of Civil Procedure, which was borrowed directly from the California Code (section 473.)

That article is as follows:

"Upon such terms as may be just the court may relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect: Provided, That application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken."

As a result of these statutory innovations in the common law rule a great variety of practice has arisen in the various states in the matter of the vacation of judgments.

As is said by Freeman in his work on judgments: "The practice in the different states is, in many respects, so conflicting that few rules can be laid down as universally applicable."

A somewhat extended examination of the text book *Authorities* and of the cases cited by them in support of the discussion of the varying practice in different American jurisdictions, under varying provisions of procedural statutes, satisfies us that American precedents furnish an uncertain guide, and should be deemed to be merely persuasive authority at best.

In California, from whose procedural code section 113 of our Code was adopted, the courts have gone farther, perhaps, than elsewhere, in holding that, except as otherwise expressly provided by statute, their jurisdiction to set

aside alleged void judgments on motion is exhausted at the close of the term; (Black on Judgments, par. 306; Freeman on Judgments, pars. 86, 93 and 98 and cases there cited, including *People vs. Harrison*, 84 Cal., 607) so that, while the process continues to be subject to the control of the court, a judgment cannot be vacated on any account, unless it appears on the face of the judgment roll to be a nullity for lack of jurisdiction, such a judgment being held to be "a dead limb on the judicial tree, which should be lopped off" or wholly disregarded as the circumstances require.

We are of opinion that the reasons which led the California courts to its conclusions in this regard apply with equal, if not greater, force in this jurisdiction.

Our Code, in addition to the relief by motion from judgments, orders or other proceedings taken against a party through his mistake, inadvertence, surprise or excusable neglect when application is made therefor within six months from the taking of such judgments or orders, which is provided in section 113, furnishes a special summary remedy by original petition to the Supreme Court (section 513) whereby a party aggrieved by a default judgment who has been deprived of a hearing by frauds accident, mistake or excusable negligence, may have such default judgment summarily set aside if application is made within sixty days after he first learns of the rendition of such judgment.

The remedies thus provided were evidently intended to include and do in fact include every case wherein the courts should be permitted to open up cases after judgments have been entered and become final, other than the exceptional case of a judgment which appears on the face of the record (or more accurately speaking the "Book of Final Records" or Judgment Roll, sec. 387, Code of Civil Procedure) to, have been entered without jurisdiction, and is therefore a nullity which may be "stricken down or wholly disregarded" as the circumstances require, and vacated or set aside by the court wherein it was entered upon the attention of the court being directed by motion or otherwise to the fact that it is void for lack of jurisdiction in the court to enter it. Every consideration of expediency and justice, is opposed to the uncontrolled exercise of discretion by the courts in opening up cases after judgments entered therein have become final, and our statutes having undertaken to regulate the practice and having furnished adequate remedies whereby the courts can grant relief of this kind in appropriate cases, no attempt to extend the authority of the courts beyond the prescribed limits should be tolerated. Strict adherence to the code provisions in this regard will avoid much of the confusion and embarrassment to which both the litigants and the courts have been exposed as a result of the laxity and uncertainty which appears to have prevailed in some jurisdictions in this regard. The interests of the individual, as well as of the community, demand there should be a definite end of every litigation; and nothing could be more impolitic than to leave it to the discretion of every court to revise and review and reconsider its judgments without limit. (*Arnedo vs. Llorente and Liongson*, supra.)

Of course what has been said must be understood as directed to the practice of reopening cases and vacating and setting aside judgments on motion, or by the courts themselves of their own volition, after such judgments have become final. This form of relief is wholly distinct from the relief which may and should be granted in separate proceedings instituted to enjoin a party from enforcing a judgment which he has obtained when it would be "against conscience to permit him to do so." and for such other further and additional relief as may be just under all the circumstances

The enjoining of a judgment at law is a purely equitable remedy, but as has been well said:

" * * * It is not necessary for its exercise that the tribunal should be distinctively and individually organized as a chancery court. This power is habitually brought into play in those states where, for want of separate equity courts, the law courts apply equitable remedies. And even under the codes, where law and equity are fused, equitable jurisdiction, equitable proceedings and equitable remedies are not abolished, although metamorphosed

as to their external appearance. * * * (Black on Judgments, par. 360.)

And further:

* * * Judgments are not reversed or vacated in equity. Adjudications at law are not overhauled or re-examined. It is to the party himself that the energies of the court of equity are directed, and its remedial power is exercised by putting restraint upon his usual liberty of following up his judgment by the appropriate process for its collection. Equity therefore acts on the person, not the proceeding; and while it will enjoin the enforcement of a judgment, in proper cases, it will not interfere with the judgment itself. * * * (Par. 357, supra.)

And again:

"Fraud has always been reckoned among the special abhorrences of equity, and fraud is one of the grounds upon which application is most frequently made to equity for relief or redress. It is well settled that equity will enjoin a party from enforcing a judgment which he has obtained by means of fraud. 'Fraud will vitiate a judgment, and a court of equity may declare it a nullity. Equity has so great an abhorrence of fraud that it will set aside its own decrees if founded thereupon.' * * * (Par. 368, supra.)

This form of relief is expressly recognized in the Code of Civil Procedure in section 43, which provides for a prescription period of four years for actions "for relief on the ground of fraud," the right of action in such cases "not to be deemed to have accrued until the discovery of 'the fraud.'"

From what has been said it follows that the probate court properly declined to assume jurisdiction to vacate or set aside its final order turning over the property to the defendant in this case, on the ground of fraud in its procurement, the motion therefor not having been submitted during the six months' period prescribed in article 113 of the Code within which judgment or orders may be vacated or set aside on motion; and it further follows, that the court having no jurisdiction to entertain such a motion, its dismissal is no bar to a separate action for relief on the ground of fraud, and defendant's plea of res adjudicata was properly overruled.

We conclude that the judgment entered in the court below should be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Araullo, Street, and Fisher, JJ., concur.

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