TOMAS CLAUDIO MEMORIAL COLLEGE, INC., PETITIONER VS. COURT OF APPEALS, HON. ALEJANDRO S. MARQUEZ, CRISANTA DE CASTRO, ELPIDIA DE CASTRO, EFRINA DE CASTRO, IRENEO DE CASTRO AND A...

G.R. No. 124262. October 12, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This special civil action for certiorari seeks to set aside the Decision of the Court Appeals dated August 14, 1995, in CA-G.R. SP No. 36349, and its Resolution dated March 15, 1996, which denied petitioner's motion for reconsideration.

On December 13, 1993, private respondents filed an action for Partition before the Regional Trial Court of Morong, Rizal. They alleged that their predecessor-in-interest, Juan De Castro, died intestate in 1993 and they are his only surviving and legitimate heirs. They also alleged that their father owned a parcel of land designated as Lot No. 3010 located at Barrio San Juan, Morong, Rizal, with an area of two thousand two hundred sixty nine (2,269) square meters more or less. They further claim that in 1979, without their knowledge and consent, said lot was sold by their brother Mariano to petitioner. The sale was made possible when Mariano represented himself as the sole heir to the property. It is the contention of private respondents that the sale made by Mariano affected only his undivided share to the lot in question but not the shares of the other co-owners equivalent to four fifths (4/5) of the property.

Petitioner filed a motion to dismiss contending, as its special defense, lack of jurisdiction and prescription and/or laches. The trial court, after hearing the motion, dismissed the complaint in an Order dated August 18, 1984. On motion for reconsideration, the trial court, in an Order dated October 4, 1994, reconsidered the dismissal of the complaint and set aside its previous order. Petitioner filed its own motion for reconsideration but it was denied in an Order dated January 5, 1995.

Aggrieved, petitioner filed with the Court of Appeals a special civil action for certiorari anchored on the following grounds: a) the RTC has no jurisdiction to try and take cognizance of the case as the causes of actions have been decided with finality by the Supreme Court, and b) the RTC acted with grave abuse of discretion and authority in taking cognizance of the case.

After the parties filed their respective pleadings, the Court of Appeals, finding no grave abuse of discretion committed by the lower court, dismissed the petition in a Decision dated August 14, 1995. Petitioner filed a timely motion for reconsideration but it was denied in a Resolution dated March 15, 1996. Hence this petition.

Petitioner submits the following grounds to support the granting of the writ of certiorari in the present case:

FIRST GROUND

THE HON. COURT OF APPEALS AND THE REGIONAL TRIAL COURT (BR. 79) HAD NO JURISDICTION TO TRY SUBJECT CASE (SP. PROC. NO. 118-M). THE "CAUSES OF ACTION" HEREIN HAVE BEEN FINALLY DECIDED BY THE HON. COURT OF FIRST INSTANCE OF RIZAL (BR. 31) MAKATI, METRO MANILA, AND SUSTAINED IN A FINAL DECISION BY THE HON. SUPREME COURT.

SECOND GROUND

THE HON. COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AND AUTHORITY WHEN IT SUSTAINED THE ORDERS OF THE HON. REGIONAL TRIAL COURT (BR. 79) DATED OCTOBER 4, 1994, AND THE ORDER DATED JANUARY 5, 1995, WHEN SAID RTC (BR. 79) INSISTED IN TRYING THIS CASE AGAINST TCMC WHEN IT HAS RULED ALREADY IN A FINAL ORDER THAT PETITIONER IS NOT A "REAL PARTY" IN INTEREST BY THE HON. REGIONAL TRIAL COURT (BR. 79) IN CIVIL CASE NO. 170, ENTITLED ELPIDIA A. DE CASTRO, ET. AL. vs. TOMAS CLAUDIO MEMORIAL COLLEGE, ET. AL., WHICH CASE INVOLVED THE SAME RELIEF, SAME SUBJECT MATTER AND THE SAME PARTIES.

THIRD GROUND

THE HON. COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AND AUTHORITY WHEN IT CAPRICIOUSLY AND WHIMSICALLY DISREGARDED THE EXISTENCE OF RES JUDICATA IN THIS CASE.

The pivotal issues to be resolved in this case are: whether or not the Regional Trial Court and/or the Court of Appeals had jurisdiction over the case, and if so, whether or not the Court of Appeals committed grave abuse of discretion in affirming the decision of the Regional Trial Court.

In assailing the Orders of the appellate court, petitioner invokes Rule 65 of the Rules of Court as its mode in obtaining a reversal of the assailed Decision and Resolution. Before we dwell on the merits of this petition, it is worth noting, that for a petition for certiorari to be granted, it must be shown that the respondent court committed grave abuse of discretion equivalent to lack or excess of jurisdiction and not mere errors of judgment, for certiorari is not a remedy for errors of judgment, which are correctible by appeal.[1] By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and mere abuse of discretion is not enough -- it must be grave.[2]

In the case at hand, there is no showing of grave abuse of discretion committed by the public respondent. As correctly pointed out by the trial court, when it took cognizance of the action for partition filed by the private respondents, it acquired jurisdiction over the subject matter of the case.[3] Jurisdiction over the subject matter of a case is conferred by law and is determined by the allegations of the complaint irrespective of whether the plaintiff is entitled to all or some of the claims asserted therein.[4] Acquiring jurisdiction over the subject matter of a case does not necessarily mean that the lower court meant to reverse the decision of the Supreme Court in the land registration case mentioned by the petitioner.

Moreover, settled is the rule that the jurisdiction of the court over the subject matter is determined by the allegations of the complaint, hence the court's jurisdiction cannot be made to depend upon defenses set up in the answer or in a motion to dismiss.[5] This has to be so, for were the principle otherwise, the ends of justice would be frustrated by making the sufficiency of this kind of action dependent upon the defendant in all cases.

Worth stressing, as long as a court acts within its jurisdiction any alleged errors committed in the exercise thereof will amount to nothing more than errors of judgment which are revisable by timely appeal and not by a special civil action of certiorari.[6] Based on the foregoing, even assuming for the sake of argument that the appellate

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court erred in affirming the decision of the trial court, which earlier denied petitioner's motion to dismiss, such actuation on the part of the appellate court cannot be considered as grave abuse of discretion, hence not correctible by certiorari, because certiorari is not available to correct errors of procedure or mistakes in the judge's findings and conclusions.

In addition, it is now too late for petitioner to question the jurisdiction of the Court of Appeals. It was petitioner who elevated the instant controversy to the Court of Appeals via a petition for certiorari. In effect, petitioner submitted itself to the jurisdiction of the Court of Appeals by seeking affirmative relief therefrom. If a party invokes the jurisdiction of a court, he cannot thereafter challenge that court's jurisdiction in the same case.[7] To do otherwise would amount to speculating on the fortune of litigation, which is against the policy of the Court.

On the issue of prescription, we have ruled that even if a co-owner sells the whole property as his, the sale will affect only his own share but not those of the other co-owners who did not consent to the sale.[8] Under Article 493 of the Civil Code, the sale or other disposition affects only the seller's share pro indiviso, and the transferee gets only what corresponds to his grantor's share in the partition of the property owned in common. Since a co-owner is entitled to sell his undivided share, a sale of the entire property by one co-owner without the consent of the other co-owners is not null and void. However, only the rights of the co-owner/seller are transferred, thereby making the buyer a co-owner of the property. The proper action in a case like this, is not for the nullification of the sale, or for the recovery of possession of the property owned in common from the third person, but for division or partition of the entire property if it continued to remain in the possession of the co-owners who possessed and administered it.[9] Such partition should result in segregating the portion belonging to the seller and its delivery to the buyer.

In the light of the foregoing, petitioner's defense of prescription against an action for partition is a vain proposition. Pursuant to Article 494 of the Civil Code, "no co-owner shall be obliged to remain in the co-ownership. Such co-owner may demand at anytime the partition of the thing owned in common, insofar as his share is concerned." In Budlong vs. Bondoc,[10] this Court has interpreted said provision of law to mean that the action for partition is imprescriptible. It cannot be barred by prescription. For Article 494 of the Civil Code explicitly declares: "No prescription shall lie in favor of a co-owner or co-heirs as long as he expressly or impliedly recognizes the co-ownership."

WHEREFORE, the instant petition is DENIED. The assailed decision of the Court of Appeals is hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Mendoza (Acting Chairman), and Buena, JJ., concur.

Bellosillo, J. (Chairman), on official leave.

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[1] Medina vs. City Sheriff, Manila, 276 SCRA 133, 138 (1997); Jamer vs. National Labor Relations Commission 278 SCRA 632, 646 (1997).

[2] Tanada vs. Angara, 272 SCRA 18, 79 (1997).

[3] Rollo, p. 72.

[4] Garcia vs. Court of Appeals, 273 SCRA 239, 247 (1997).

[5] Sandel vs. Court of Appeals, 262 SCRA 101, 109 (1996).

[6] Commissioner on Internal Revenue vs. Court of Appeals, 257 SCRA 200, 232 (1996).

[7] Sarmiento vs. Salud, 46 SCRA 365, 367 (1972).

[8] Bailon-Casilao vs. Court of Appeals, 160 SCRA 738, 746 (1988).

[9] Id. at 744.

[10] 79 SCRA 24 (1977).

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