

MARIA MERCEDES NERY, BENJAMIN NERY, MARIA PAZ NERY, APOLINAR NERY AND ROBERTO FRANCISCO NERY – ALL REPRESENTED BY LICINIUS ABADIANO AND LOURDES DEL RIO ESPIRITU, PETITIONERS, VS...

G.R. No. 139306. August 29, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Court of Appeals has exclusive jurisdiction over actions for annulment of trial court decisions. Hence, a regional trial court has no authority to annul the final judgment of a co-equal court.

The Case

Before us is a Petition for Review on Certiorari of the Decision[1] dated February 10, 1999 and the Resolution[2] dated June 30, 1999, issued by the Court of Appeals (CA) in CA-GR CV No. 43655 affirming the dismissal of the Complaint, instituted by the petitioners against the respondents, for the declaration of nullity of the subject certificate of title and judicial proceedings, with damages. The assailed Decision disposed as follows:[3]

“WHEREFORE, premises considered, the Decision dated February 10, 1993 is hereby AFFIRMED in toto.

“Costs against the plaintiffs-appellants.”

The assailed Resolution denied reconsideration.

The Facts

The facts of this case are summarized by the CA, as follows:[4]

“The [Petitioners] Maria Mercedes, Benjamin, Maria Paz, Apolinar and Roberto Francisco, all surnamed Nery[,] claim that they xxx are the children of xxx Mercedes del Rio, who died during World War II. They are also heirs of their maternal grandmother Agatona del Corro, who as a widow, died in 1976. When Mercedes del Rio died, she left a share in the parcel of land in Lapu-Lapu City covered by O.C.T. No. RO-0083 in the name of Agatona del Corro, et al. The land is being managed by [petitioners’] uncle Eduardo del Rio and Lourdes del Rio Espiritu.

“After the death of Mercedes del Rio, her heirs executed an Extrajudicial Partition and Declaration of Heirs dated January 28, 1964 covering the share of Mercedes del Rio in the land in question. The death of Mercedes del Rio was duly annotated on O.C.T. No. RO-0083 (Exh. A-1) on February 27, 1964. On December 2, 1964, a Notice of Lis Pendens (Re-Civil Case No. R-8646 C.F.I. of Cebu) was executed and annotated on the title by Atty. Regino Hermosissima representing Lourdes Leyson, et al. It appears that the Leysons had filed a case for annulment and cancellation of O.C.T. No. RO-0083. The [petitioners] claim that they were not made parties to said case and that although their mother Mercedes del Rio was impleaded as defendant, she was already dead when Civil Case No. [R-]8646 was filed in 1964. They maintain that the decision in Civil Case No. [R-]8646 does not bind them for they [were] not parties thereto, hence, the same [was] null and void.

“They therefore filed this case [docketed as Civil Case No. 2379-L] seeking the declaration of nullity of T.C.T. No. 119747 in the name of the Leysons and of the judicial proceedings in Civil Case No. [R-]8646.

“[Respondents’] evidence, on the other hand, show that the land in dispute, Lot No. 73 of Cadastral Survey of Opon (now Lapu-Lapu City) is titled in their names under T.C.T. No. 19747 which was derived from O.C.T. No. 15615. Appearing in the said title is the name of their father Jose S. Leyson who acquired the land through purchase from Rosario Miranda. They were in possession of the property until 1963 when Agatona del Corro and her children took over the possession of the same. Lot No. 73 of the Cadastral Survey of Opon (now Lapu-Lapu City) covered by T.C.T. No. 19747 became the subject of litigation in Civil Case No. R-8646 entitled ‘Lourdes Velez Leyson, Josefina Leyson Poblete, Fe Leyson, Esperanza Leyson, Caridad Leyson and Gabriel Leyson versus Agatona del Corro, Antolin del Rio, Consuelo del Rio, Mercedes del Rio, Socorro del Rio, Lourdes del Rio and Eduardo del Rio. The case was filed on December 2, 1964 before the then Court of First Instance of Cebu, Branch V.

“The trial court in Civil Case No. [R-]8646 rendered a Decision on May 2, 1968 in favor of plaintiffs Lourdes V. Leyson, et al., and against therein defendants Agatona del Corro, et al. The dispositive portion of said decision reads as follows:

‘IN VIEW OF THE FOREGOING findings, the Court hereby renders judgment in favor of the plaintiffs and against the defendants:

‘(1) Setting aside the order of this Court dated September 23, 1963 reconstituting the Original Certificate of Title for Lot No. 73 of the Opon Cadastre;

‘(2) Declaring the reconstituted Original Certificate of Title No. RO-0083 covering Lot No. 73 in the name of the defendants as cancelled, null and void, and, without legal force and effect; and, ordering, therefore, the defendants to turn over the possession of the lot in question to the plaintiffs who have the right to possess it;

‘(3) Declaring the plaintiffs’ Transfer Certificate of Title No. 19747 for Lot No. 73 valid and with legal force and effect;

‘(4)

Declaring the herein plaintiffs to be the real and absolute owners of Lot No. 73;

‘(5) Ordering the defendants to pay jointly and severally to the plaintiffs the sum of P4,800.00 as actual damages;

‘(6) To pay P2,000.00 representing attorney’s fees and to pay the costs of the suit.

‘SO ORDERED.’

“Defendants Agatona, et al. appealed the aforesaid decision to the Court of Appeals where it was docketed as CA-G.R. No. 45878-R. In its Decision promulgated on March 15, 1976, the appellate court affirmed in all respects the decision appealed from (Exh. ‘2’ and ‘2-A’).

“For failure of the defendants Agatona del Corro, et al. to appeal the decision of the Court of Appeals, the same xxx [became] final and executory on April 10, 1976 as shown by the Entry of Judgment (Exh. ‘3’ and ‘3-A’).

“Subsequent to the finality of the appellate court’s decision in Civil Case No. R-8646 on April 10, 1976, there were efforts on the part of the Leysons to execute the decision in Civil Case No. R-8646 but for one reason or another, the same did not materialize as testified to by one of the [respondents] in the present case, Caridad V. Leyson. x x x.”

On January 16, 1991, the petitioners instituted against the respondents an action for the declaration of nullity of

TCT No. 19747 and the judicial proceedings in Civil Case No. R-8646. The Regional Trial Court of Lapu-Lapu City, Branch 27,[5] rendered a Decision[6] dated February 10, 1993, in favor of the respondents. It disposed as follows:[7]

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the [herein respondents] and against the [herein petitioners], dismissing the case with cost against the [petitioners].”

As earlier stated, the CA denied the petitioners’ appeal.

Ruling of the Court of Appeals

The CA ruled that petitioners’ action for annulment of title and judicial proceedings was not barred by res judicata, which was inapplicable, but by the principle of conclusiveness of judgment under Rule 39, Section 49, par. (c) of the Rules of Court. The issue of which between the two reconstituted titles was valid and genuine was settled by the CA in the earlier case docketed as CA-GR No. 45678-R, which ruled:

“Insofar as the two titles existing over the same parcel of land are concerned, [w]e agree with the lower court that TCT No. 19747 should prevail, and that the reconstituted OCT No. RO-0083 should be cancelled. Upon the facts set forth above, it is evident that OCT No. 15615 and TCT No. 8834, both in the names of the defendants, have been cancelled. Said title[s], or either of them, therefore, may no longer be validly reconstituted. The provisions of Republic Act No. 26 are applicable and their mandate must be obeyed. According to said law, reconstitution of the lost or destroyed title may be ordered by the court only if, after hearing, it finds, among others, that the documents represented as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution, and that the petitioner is the registered owner of the property or has an interest therein, and that said certificate of title was in force at the time it was lost or destroyed (Section 15). As plaintiffs’ title had already cancelled the title relied upon by the defendants in their petition for reconstitution, it follows that the reconstitution of the latter was null and void and, therefore, the court a quo was correct in ordering its cancellation.”

The petitioners’ action for annulment was filed fifteen years after the above-mentioned judgment had become final on April 10, 1976. The long period of time that had lapsed precluded them from further prosecuting the same issue. Finally, a regional trial court has no jurisdiction to annul the judgment of a co-equal court; jurisdiction in such cases lies in the Court of Appeals.

Hence, this Petition.[8]

Issues

Insisting that they were deprived of their day in court, petitioners, in their Memorandum, raise the following issues:[9]

“1. Whether or not the Court of Appeals erred in ruling that the petitioners’ cause of action was barred by the principle of conclusiveness of judgment under Rule 39, Section 49, Paragraph (c) of the Rules of Court.

“2. Whether or not the Court of Appeals erred in ruling that the decision in Civil Case No. R-8646, as affirmed by the Court of Appeals in CA-GR No. 45678-R, [became] final and executory against herein petitioners.”

This Court’s Ruling

The Court, after due deliberation, resolves to deny the Petition.

First Issue:

Conclusiveness of Judgment

Petitioners challenge the application to this case of the principle of conclusiveness of judgment, arguing that jurisdiction over them was never acquired by the trial court. Barring their action would be tantamount to deprivation of property without due process of law, they argue.

Respondents, on the other hand, insist that the trial court in Civil Case No. R-8646 acquired jurisdiction over the persons of the defendants therein including the petitioners because (1) it was the duty of the attorney for the deceased Mercedes del Rio to inform the court of the client's death, and (2) the attorney represented the same interest as the other defendants -- their grandmother, uncles and aunts. Respondents add that petitioners' failure to raise this defense in the Answer and Amended Answer constituted a waiver of this defense; hence, the latter are estopped from raising it now.

Rule 39, Section 49 of the Rules of Court, which the CA cited as the basis for the assailed Decision, provides:

“SEC. 49. Effect of judgments.—The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

“(a) In case of a judgment or order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or order is conclusive upon the title to the thing, the will or administration, or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be prima facie evidence of the death of the testator or intestate;

“(b) In other cases, the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;

“(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.”[10]

To bar the petitioners' action for annulment on the ground of res judicata, the following elements should be present: (1) the judgment being sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be based on a judgment or an order on the merits; and (4) there must be identity of parties, subject matter and causes of action.[11]

There is clearly no identity of parties between Civil Case R-8646 and 2379-L.[12] The petitioners were indispensable parties in Civil Case R-8646, as they were the legal heirs of Mercedes del Rio, who was one of the registered owners in OCT RO-0083/15615 which covered the disputed land. Furthermore, she has been dead since 1942 or years before Civil Case R-8646 was filed in 1964. The joinder of indispensable parties or parties in interest, without whom there can be no final determination of an action is compulsory under Rule 3, Section 7 of the Rules of Court.[13]

However, petitioners were never served summons; neither did they join their relatives in filing the Answer and Amended Answer. Nor were they given a chance to set up their own defenses against the respondents' claim of ownership over the disputed lot. Plainly then, the trial court did not acquire jurisdiction over them.

Respondents, on the other hand, contend that the trial court acquired jurisdiction over the petitioners when they failed to notify the lower court of the death of Mercedes del Rio during the trial of Civil Case R-8646. We disagree. Under Section 16, Rule 3 of the Rules of Court, only in a pending case is the counsel of a party required

to inform the court in case the client dies or becomes incapacitated or incompetent. A pending case necessarily implies that the court has already acquired jurisdiction over the person of the party who died or became incapacitated or incompetent. Prior to this development, the trial court cannot impose such requirement on the counsel for the defendants; Section 16 of Rule 3 thus finds no application to this case. On the other hand, it is the duty of the plaintiff to implead all the necessary or indispensable parties for the complete determination of the action. OCT RO-0083/15615 reveals that Mercedes del Rio was a registered co-owner of the disputed lot, but she was not placed under the jurisdiction of the trial court in Civil Case No. R-8646. Neither were her heirs.

Respondents also posit that the service of summons on the petitioners could be dispensed with, since there is substantial identity between the mother and the siblings of Mercedes del Rio, on the one hand, and the petitioners on the other. The reason for this substantial identity is that the petitioners represent the same interest as the other defendants in Civil Case R-8646. Again, we disagree. True, *res judicata* is not defeated by a minor difference of parties, as it does not require absolute but only substantial identity of parties.[14] But there is substantial identity only when the “additional” party acts in the same capacity or is in privity with the parties in the former action.[15] This is not so in the present case. Co-owners are not parties *inter se* in relation to the property owned in common.[16] A subsequent action by a co-heir, who did not join the earlier dismissed action for recovery of property, should not be barred by prior judgment.[17] Neither will conclusiveness of judgment apply because there was no identity of parties.

In view of the foregoing discussion, petitioners should not be bound by the decision in Civil Case No. R-8646. This, however, does not justify the reversal of the assailed Decision. As will now be explained, the petitioners’ action suffers from a fatal defect which prevents their action for annulment from prospering.

Second Issue: Annulment of Judgment

The reason why the herein Petition cannot be granted is the trial court’s lack of jurisdiction to annul a final judgment of a co-equal court. Petitioners allege that the decision in Civil Case R-8646 passed upon the validity of OCT RO-0083/15615. Such allegation makes the root of their present action one for annulment of a final judgment. This Court cannot ignore the fact that such action is outside the jurisdiction of the RTC. On this point, the CA ruled, albeit in passing, that “xxx the court a quo does not have the jurisdiction to annul the judgment of a regional trial court as jurisdiction thereon is lodged with the Court of Appeals.”[18] We sustain the Court of Appeals on this point.

Section 9 of BP 129,[19] as amended, vests in the CA “[e]xclusive jurisdiction over actions for annulment of judgments of regional trial courts xxx.”[20] Hence, even if the trial court in Civil Case No. R-8646 did not acquire jurisdiction over the petitioners, the trial court in Civil Case No. 2379-L cannot annul the final judgment in Civil Case No. R-8646, as jurisdiction over the subject matter, which in this case is annulment of final judgment, is vested by law in a higher court, the CA.[21]

WHEREFORE, the Petition is DENIED and, for the reasons above-stated, the assailed Decision and Resolution are AFFIRMED. Costs against the petitioners.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 27-32; penned by Justice Salome A. Montoya, Division chairman; concurred in by Justices Ruben T. Reyes and Eloy R. Bello Jr., members.

[2] Rollo p. 38.

[3] CA Decision, p. 6; rollo, p. 32.

[4] CA Decision, pp. 1-5; rollo, pp. 27-31.

[5] Presided by Judge Teodoro K. Risos.

[6] Rollo, pp. 21-26.

[7] RTC Decision, p. 6; rollo, p. 26.

[8] This case was deemed submitted for decision on May 10, 2000, upon receipt by this Court of the respondents' Memorandum, signed by Atty. Alicia E. Bathan of Bathan & Associates Law Firm. Petitioners' Memorandum, signed by Atty. Alan F. Pagua, was filed earlier.

[9] Rollo, p. 57.

[10] In the 1997 Rules of Court, this provision was renumbered and appears as Rule 39, Section 47.

[11] *Casil v. Court of Appeals*, 285 SCRA 264, 276, January 28, 1998; *Linzag v. Court of Appeals*, 291 SCRA 304, 319, June 26, 1998; *Cruz v. Court of Appeals*, 293 SCRA 239, 256, July 27, 1998.

[12] CA Decision, p. 5; rollo, p. 31.

[13] *Victorias Milling Co., Inc. v. National Labor Relations Commission*, 262 SCRA 623, 630, October 2, 1996; *Metropolitan Waterworks and Sewerage System (MWSS) v. Court of Appeals*, 297 SCRA 287, 308, tober 7, 1998.¹³

[14] *Sempio v. Court of Appeals*, 284 SCRA 580, 586, January 22, 1998; *Carlet v. Court of Appeals*, *supra*, p. 107; *Municipality of San Juan, Metro Manila v. Court of Appeals*, 279 SCRA 711, 717, September 29, 1997.

[15] *Concepcion v. Agana*, 268 SCRA 307, 318, February 17, 1997.

[16] *Santiago v. J.M. Tuason & Co*, 110 Phil. 16, 20, November 23, 1960.

[17] *Bancairen v. Diones*, 98 Phil. 122, 125-126, December 20, 1955.

[18] CA Decision, p. 6; rollo, p. 32.

[19] The Judiciary Reorganization Act of 1980.

[20] Encoded as Rule 47 in the 1997 Rules of Court.

[21] *Cudia v. Court of Appeals*, 284 SCRA 173, 180-181, January 16, 1998; *Union Bank of the Philippines v. Court of Appeals*, 290 SCRA 198, 213, May 19, 1998.

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