

SPS. RENE GONZAGA AND LERIO GONZAGA, PETITIONERS, VS. HON. COURT OF APPEALS, SECOND DIVISION, MANILA, HON. QUIRICO G. DEFENSOR, JUDGE, RTC, BRANCH 36, SIXTH JUDICIAL REGION, ILO...

G.R. No. 144025. December 27, 2002

Ponente: CORONA, J.

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CORONA, J.:

Before this Court is a petition for review on certiorari seeking the reversal of the decision[1] of the Court of Appeals dated December 29, 1999 and its resolution dated June 1, 2000 in CA-G.R. SP No. 54587.

The records disclose that, sometime in 1970, petitioner-spouses purchased a parcel of land from private respondent Lucky Homes, Inc., situated in Iloilo and containing an area of 240 square meters. Said lot was specifically denominated as Lot No. 19 under Transfer Certificate of Title (TCT) No. 28254 and was mortgaged to the Social Security System (SSS) as security for their housing loan. Petitioners then started the construction of their house, not on Lot No. 19 but on Lot No. 18, as private respondent mistakenly identified Lot No. 18 as Lot No. 19. Upon realizing its error, private respondent, through its general manager, informed petitioners of such mistake but the latter offered to buy Lot No. 18 in order to widen their premises. Thus, petitioners continued with the construction of their house. However, petitioners defaulted in the payment of their housing loan from SSS. Consequently, Lot No. 19 was foreclosed by SSS and petitioners' certificate of title was cancelled and a new one was issued in the name of SSS. After Lot No. 19 was foreclosed, petitioners offered to swap Lot Nos. 18 and 19 and demanded from private respondent that their contract of sale be reformed and another deed of sale be executed with respect to Lot No. 18, considering that their house was built therein. However, private respondent refused. This prompted petitioners to file, on June 13, 1996, an action for reformation of contract and damages with the Regional Trial Court of Iloilo City, Branch 36, which was docketed as Civil Case No. 17115.

On January 15, 1998, the trial court[2] rendered its decision dismissing the complaint for lack of merit and ordering herein petitioners to pay private respondent the amount of P10,000 as moral damages and another P10,000 as attorney's fees. The pertinent conclusion of the trial court reads as follows:

"Aware of such fact, the plaintiff nonetheless continued to stay in the premises of Lot 18 on the proposal that he would also buy the same. Plaintiff however failed to buy Lot 18 and likewise defaulted in the payment of his loan with the SSS involving Lot 19. Consequently Lot 19 was foreclosed and sold at public auction. Thereafter TCT No. T-29950 was cancelled and in lieu thereof TCT No. T-86612 (Exh. '9') was issued in favor of SSS. This being the situation obtaining, the reformation of instruments, even if allowed, or the swapping of Lot 18 and Lot 19 as earlier proposed by the plaintiff, is no longer feasible considering that plaintiff is no longer the owner of Lot 19, otherwise, defendant will be losing Lot 18 without any substitute therefore (sic). Upon the other hand, plaintiff will be unjustly enriching himself having in its favor both Lot 19 which was earlier mortgaged by him and subsequently foreclosed by SSS, as well as Lot 18 where his house is presently standing.

"The logic and common sense of the situation lean heavily in favor of the defendant. It is evident that what

plaintiff had bought from the defendant is Lot 19 covered by TCT No. 28254 which parcel of land has been properly indicated in the instruments and not Lot 18 as claimed by the plaintiff. The contracts being clear and unmistakable, they reflect the true intention of the parties, besides the plaintiff failed to assail the contracts on mutual mistake, hence the same need no longer be reformed.”[3]

On June 22, 1998, a writ of execution was issued by the trial court. Thus, on September 17, 1998, petitioners filed an urgent motion to recall writ of execution, alleging that the court a quo had no jurisdiction to try the case as it was vested in the Housing and Land Use Regulatory Board (HLURB) pursuant to PD 957 (The Subdivision and Condominium Buyers Protective Decree). Conformably, petitioners filed a new complaint against private respondent with the HLURB. Likewise, on June 30, 1999, petitioner-spouses filed before the Court of Appeals a petition for annulment of judgment, premised on the ground that the trial court had no jurisdiction to try and decide Civil Case No. 17115.

In a decision rendered on December 29, 1999, the Court of Appeals denied the petition for annulment of judgment, relying mainly on the jurisprudential doctrine of estoppel as laid down in the case of *Tijam vs. Sibonghanoy*.^[4]

Their subsequent motion for reconsideration having been denied, petitioners filed this instant petition, contending that the Court of Appeals erred in dismissing the petition by applying the principle of estoppel, even if the Regional Trial Court, Branch 36 of Iloilo City had no jurisdiction to decide Civil Case No. 17115.

At the outset, it should be stressed that petitioners are seeking from us the annulment of a trial court judgment based on lack of jurisdiction. Because it is not an appeal, the correctness of the judgment is not in issue here. Accordingly, there is no need to delve into the propriety of the decision rendered by the trial court.

Petitioners claim that the recent decisions of this Court have already abandoned the doctrine laid down in *Tijam vs. Sibonghanoy*.^[5] We do not agree. In countless decisions, this Court has consistently held that, while an order or decision rendered without jurisdiction is a total nullity and may be assailed at any stage, active participation in the proceedings in the court which rendered the order or decision will bar such party from attacking its jurisdiction. As we held in the leading case of *Tijam vs. Sibonghanoy*:^[6]

“A party may be estopped or barred from raising a question in different ways and for different reasons. Thus we speak of estoppel in pais, or estoppel by deed or by record, and of estoppel by laches.

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“It has been held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate, or question that same jurisdiction x x x [T]he question whether the court had jurisdiction either of the subject matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated — obviously for reasons of public policy.”

Tijam has been reiterated in many succeeding cases. Thus, in *Orosa vs. Court of Appeals*; ^[7] *Ang Ping vs. Court of Appeals*; ^[8] *Salva vs. Court of Appeals*; ^[9] *National Steel Corporation vs. Court of Appeals*; ^[10] *Province of Bulacan vs. Court of Appeals*; ^[11] *PNOC Shipping and Transport Corporation vs. Court of Appeals*; ^[12] this Court affirmed the rule that a party’s active participation in all stages of the case before the trial court, which includes invoking the court’s authority to grant affirmative relief, effectively estops such party from later challenging that same court’s jurisdiction.

In the case at bar, it was petitioners themselves who invoked the jurisdiction of the court a quo by instituting an

action for reformation of contract against private respondents. It appears that, in the proceedings before the trial court, petitioners vigorously asserted their cause from start to finish. Not even once did petitioners ever raise the issue of the court's jurisdiction during the entire proceedings which lasted for two years. It was only after the trial court rendered its decision and issued a writ of execution against them in 1998 did petitioners first raise the issue of jurisdiction — and it was only because said decision was unfavorable to them. Petitioners thus effectively waived their right to question the court's jurisdiction over the case they themselves filed.

Petitioners should bear the consequence of their act. They cannot be allowed to profit from their omission to the damage and prejudice of the private respondent. This Court frowns upon the undesirable practice of a party submitting his case for decision and then accepting the judgment but only if favorable, and attacking it for lack of jurisdiction if not.^[13]

Public policy dictates that this Court must strongly condemn any double-dealing by parties who are disposed to trifle with the courts by deliberately taking inconsistent positions, in utter disregard of the elementary principles of justice and good faith.^[14] There is no denying that, in this case, petitioners never raised the issue of jurisdiction throughout the entire proceedings in the trial court. Instead, they voluntarily and willingly submitted themselves to the jurisdiction of said court. It is now too late in the day for them to repudiate the jurisdiction they were invoking all along.

WHEREFORE, the petition for review is hereby DENIED.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

[1] Penned by Associate Justice Bernardo LL. Salas, concurred in by Associate Justices Cancio C. Garcia and Mariano M. Umali, Second Division. [[2]] Judge Quirico G. Defensor of the Iloilo City RTC presiding. [[3]] Rollo, p. 114.

[4] 23 SCRA 29 [1968].

[5] Ibid.

[6] Ibid. [[7]] 329 SCRA 652 [2000].

[8] 310 SCRA 343 [1999].

[9] 304 SCRA 632 [1999].

[10] 302 SCRA 522 [1999].

[11] 299 SCRA 442 [1998].

[12] 297 SCRA 402 [1998].

[13] Zamboanga Electric Cooperative, Inc. vs. Buat, 243 SCRA 47 [1995].

[14] Salva vs. Court of Appeals, *supra*.

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