

**HEIRS OF MAURA SO, namely, YAN LAM LIM, JIMMY SO LIM, and
FERDINAND SO LIM, Petitioners, vs. LUCILA JOMOC OBLIOSCA, ELVIRA
JOMOC GARDINAB, and HEIRS OF ABUNDIA JOMOC BALALA, name...**

G.R. No. 147082. January 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) dated October 18, 2000, and Resolution dated January 11, 2001, denying the motion for reconsideration of the said decision. The assailed decision declared that a petition for annulment of judgment cannot be availed of when the petitioner had already filed an appeal under Rule 45 of the Rules of Court.

The antecedents of the case are as follows:

Pantaleon Jomoc was the owner of a parcel of land with an area of 496 square meters, covered by Transfer Certificate of Title (TCT) No. T-19648, and located at Cogon District, Cagayan de Oro. Upon his death, the property was inherited by his wife, brothers, sisters, nephews and nieces (collectively referred to as the Jomoc heirs). The respondents, Lucila Jomoc Obliosca and Abundia Jomoc Balala, sisters of the deceased, and Elvira Jomoc, a niece, were among those who inherited the property.

In February 1979, the Jomoc heirs executed a Deed of Extrajudicial Settlement with Absolute Sale of Registered Land[2] in favor of petitioner, Maura So, over the property for P300,000.00. However, the three respondents and Maura So failed to affix their signatures on this document. Moreover, the document was not notarized. Nonetheless, petitioner made a partial payment of P49,000.00 thereon.

Thereafter, petitioner demanded the execution of a final deed of conveyance but the Jomoc heirs ignored the demand. On February 24, 1983, petitioner filed a Complaint[3] for specific performance against the Jomoc heirs to compel them to execute and deliver the proper registerable deed of sale over the lot. The Jomoc heirs, except for the respondents, were impleaded as defendants. The case was docketed as Civil Case No. 8983.

On February 28, 1983, the Jomoc heirs executed again a Deed of Extrajudicial Settlement with Absolute Sale of Registered Land[4] in favor of the spouses Lim Liong Kang and Lim Pue King for P200,000.00. The spouses Lim intervened as defendants in Civil Case No. 8983.

On February 12, 1988, the trial court decided the case in favor of the petitioner. On appeal, the CA affirmed the decision with the modification that the award of damages, attorney's fees and expenses of litigation was deleted. The defendant heirs and the spouses Lim filed separate petitions for review with the Supreme Court, docketed as G.R. Nos. 92871 and 92860, which petitions were later consolidated.

On August 2, 1991, the Court rendered a Decision[5] in these consolidated cases upholding petitioner's better right over the property.[6] The decision became final and executory on November 25, 1991.

On February 10, 1992, petitioner filed a motion for execution of the said decision. The respondents opposed the motion on the ground that they did not participate in the execution of the Deed of Extrajudicial Settlement with Absolute Sale of Registered Land and they were not parties to the case. Despite the opposition, the trial court granted the motion for execution. The respondents filed a motion for reconsideration but the trial court denied the same.

On July 22, 1992, the trial court issued an Order granting the motion for execution and divesting all the Jomoc heirs of their titles over the property.[7] Accordingly, the Register of Deeds cancelled the title of the Jomoc heirs and issued TCT No. T-68370 in the name of the petitioner on July 24, 1992.

All the Jomoc heirs filed a petition for certiorari with the CA, assailing the said order of the RTC. They alleged that herein respondents were not parties to the case, therefore, they should not be bound by the decision therein and be deprived of their right over the property. On December 8, 1992, the CA dismissed the petition, holding that respondents were bound by the said decision. The CA ratiocinated that respondents were aware of the pendency of the case, yet they did not intervene, and that the case is barred by *res judicata*. Respondents elevated the case to this Court through a petition for review on certiorari, which was docketed as G.R. No. 110661. In a Resolution dated December 1, 1993, the Court denied the petition, thus:

In the case of *Vda. de Jomoc v. Court of Appeals* (200 SCRA [1991]), this Court concluded that the contract of sale between the heirs of Pantaleon Jomoc and the private respondent Maura So, even if not complete in form, so long as the essential requisites of consent of the contracting parties, object and cause of the obligation concur, and they were clearly established to be present, is valid and effective between the parties.

The lower court found that petitioners were aware of the pendency of the specific performance case brought by Maura So and we agree with the Court of Appeals that their failure to intervene in said suit for the protection of their rights binds them to the decision rendered therein.

This Court has held that a writ of execution may be issued against a person not a party to a case where the latter's remedy, which he did not avail of, was to intervene in the case in question involving rights over the same parcel of land (*Lising vs. Plan*, 133 SCRA 194 [1984]; *Suson vs. Court of Appeals*, 172 SCRA 70 [1989])

It appears that petitioner Elvira Jomoc Gadrinab signed a Special Power of Attorney in favor of Fellermo Jomoc to represent her in all proceedings regarding Civil Case No. 8983. It also appears that all the Jomoc heirs wanted to realize a higher price by selling the same piece of land a second time to the Lim spouses. Petitioner Lucila, Abundia and Elvira shared the same goal, and kept quiet while Maura So sought relief before the trial court. The other heirs sought to capitalize on Lucila's, Abundia's and Elvira's non-participation in the first sale to Maura So. The heirs' (all of them) position is bereft of moral and equitable basis.

As for the issue of *res judicata*, we believe that the same applies as a bar to the instant Petition. In G.R. No. 92871 and G.R. No. 92860, this Court had occasion to rule that herein private respondent had the right to compel the heirs of Pantaleon Jomoc to execute the proper public instrument so that a valid contract of sale of registered land can be duly registered and can bind third persons. In effect, this Court had already determined the right of private respondent to a proper registerable deed of sale which petitioners seek to challenge again in this Petition. A party cannot avoid the application of the principle of bar by prior judgment by simply varying the form of the action or by adopting a different mode of presenting its case or by adding or dropping a party (*Widows and Orphans Association, Inc. vs. Court of Appeals*, 212 SCRA 360 [1992]).

ACCORDINGLY, the Court Resolved to DENY the Petition for Review for lack of merit.

The resolution became final and executory on June 20, 1994.

It appears that, on March 12, 1992, respondents also filed a complaint for legal redemption against petitioner with the Regional Trial Court (RTC) of Misamis Oriental. The case was docketed as Civil Case No. 92-135. Respondents posited therein that, since they did not sell their shares in the property to petitioner, they remained co-owners, who have the right to redeem the shares sold by the other heirs. They prayed that they be allowed to exercise their right to redeem their co-heirs' shares and that petitioner execute all papers, documents and deeds to effectuate the right of legal redemption.

On April 27, 1994, the RTC resolved the case in favor of the respondents, thus:

WHEREFORE, judgment is hereby rendered on the pleadings and evidence of the parties on record, affidavits and other documents submitted, there being but purely legal issues involve[d], ordering the defendant herein, MAURA SO, to allow the plaintiffs to exercise their substantive right of legal redemption of the shares of plaintiffs' co- heirs, defendant Maura So, for the purpose of redemption by the plaintiffs, Lucita Jomoc Obliosca, Abundia Jomoc Balala (deceased) substituted by her children: Rosita Balala Acenas, Evangeline Balala Baaclo, Oliver J. Balala, and Perla Balala Condesa; and Elvira Jomoc Gardinab, is ordered to receive and accept the amount tendered by the plaintiffs in the amount of P49,000.00 deposited in the Office of the Clerk of Court of the Regional Trial Court of Misamis Oriental at Cagayan de Oro City, and to execute a deed of redemption in favor of the herein plaintiffs reconveying to the latter the property, and to pay Plaintiffs for attorney's fees in the reasonable sum of P20,000.00.

Other claims and for counterclaims for monetary damages of the parties are dismissed, with costs against defendant.

SO ORDERED.[8]

In a Resolution dated July 14, 1994, the RTC granted petitioner's motion for reconsideration.[9] Respondents moved for reconsideration of the said resolution. On September 7, 1994, the RTC issued an Order[10] granting respondents' motion for reconsideration and reinstating the April 27, 1994 Resolution.

On November 14, 1994, acting jointly on petitioner's Motion for Reconsideration and respondents' Compliance/Motion for the Issuance of a Writ of Execution, the RTC rendered a Resolution,[11] denying petitioner's motion for reconsideration and granting respondents' motion for execution.

On December 28, 1994, petitioner, later substituted by her heirs, filed with the CA a petition for annulment of judgment, particularly the September 7, 1994 Order, which reinstated the RTC's April 27, 1994 and November 14, 1994 Resolutions, which denied the petitioner's motion for reconsideration. On October 18, 2000, the CA denied the petition, holding that the remedy of a petition for annulment of judgment is no longer available since petitioner Maura So had already filed a petition for review with this Court assailing the same orders of the trial court.[12]

Apparently, on December 19, 1994, prior to the filing of the petition for annulment of judgment with the CA, petitioner Maura So filed a petition for review on certiorari[13] with this Court assailing the same RTC Order and Resolution. This case was docketed as G.R. No. 118050. In a Minute Resolution dated March 1, 1995, the Court denied the petition for failure to sufficiently show that the questioned judgment is tainted with grave abuse of discretion and for being the wrong remedy.[14] On June 7, 1995, the Court likewise denied petitioner's first motion for reconsideration,[15] and on July 27, 1998, the second motion for reconsideration. The March 1, 1995 Minute Resolution became final and executory on September 1, 1998.[16]

On January 11, 2001, the CA denied petitioners' motion for reconsideration of its decision denying the petition for annulment of judgment.[17] Petitioners then filed this petition for review, raising the following issues:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN NOT HOLDING THAT THE TRIAL COURT ACTED WITHOUT JURISDICTION IN CIVIL CASE NO. 92-135 BECAUSE THE HONORABLE SUPREME COURT HAD PREVIOUSLY RULED THAT THE LOT IN QUESTION HAD BEEN SOLD TWICE BY ALL THE HEIRS OF PANTALEON TO MAURA SO AND LATER TO THE LIM SPOUSES IN G.R. NOS. 92871 AND 98860 AND G.R. NO. 110661 AND SAID FINAL DECISIONS AND RESOLUTION CANNOT BE REVISED AND REVERSED BY SAID TRIAL COURT.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN HOLDING THAT THE ORIGINAL PETITION DOCKETED AS CA-G.R. SP NO. 50059 IS BARRED BY RES JUDICATA BECAUSE THE RESOLUTION IN G.R. NO. 118050 DID NOT AND CANNOT REPEAL THE FINAL AND EXECUT[ORY] DECISIONS IN G.R. NO. 92871 AND G.R. NO. 92860, AND THE FINAL AND EXECUT[ORY] RESOLUTION IN G.R. NO. 110661, AS THE RESOLUTION IN G.R. NO. 118050 IS NOT ON THE MERITS, OR BY THE SUPREME COURT EN BANC.[18]

The Court resolves to grant the petition despite the prevailing procedural restrictions, considering the peculiar circumstances of the case, in order to avoid causing a grave injustice to petitioners.

But before we discuss these circumstances which impel us to grant the petition, we must acknowledge extant procedural principles.

First, annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy.[19] Thus, it may not be invoked (1) where the party has availed himself of the remedy of new trial, appeal, petition for relief, or other appropriate remedy and lost; or (2) where he has failed to avail himself of those remedies through his own fault or negligence.[20] We, therefore, agree with the CA that the remedy of a petition for annulment of judgment is no longer available to petitioners since their predecessor-in-interest, Maura So, had already availed herself of a petition for review on certiorari under Rule 45 of the Rules of Court.

Further, none of the grounds for annulment of judgment, namely, extrinsic fraud and lack of jurisdiction, is present in this case.

Petitioners argue that the RTC acted without jurisdiction when it rendered the Resolution which recognized respondents' right to redeem the property because this, in effect, amended the Decision of the Supreme Court in G.R. Nos. 92871 and 92860, and the Resolution in G.R. No. 110661, which sustained the sale of the property to Maura So.

Petitioners clearly confused lack of jurisdiction with error in the exercise of jurisdiction. Jurisdiction is not the same as the exercise of jurisdiction. As distinguished from the exercise of jurisdiction, jurisdiction is the authority to decide a case, and not the decision rendered therein. Where there is jurisdiction over the person and the subject matter, the decision on all other questions arising in the case is but an exercise of such jurisdiction. And the errors which the court may commit in the exercise of jurisdiction are merely errors of judgment which are the proper subject of an appeal.[21] The error raised by petitioners pertains to the trial court's exercise of its jurisdiction, not its lack of authority to decide the case. In a petition for annulment of judgment based on lack of jurisdiction, petitioner must show not merely an abuse of jurisdictional discretion but an absolute lack of authority to hear and decide the case. On this basis, there would be no valid ground to grant the petition for annulment of judgment.

Second, well-settled is the principle that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions

of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.[22] The reason for this is that litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party, through a mere subterfuge, be not deprived of the fruits of the verdict.[23]

The doctrine of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final on some definite date fixed by law.[24] The only exceptions to the general rule are the correction of clerical errors, the so-called nunc pro tunc entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.[25] Again, none of these exceptions is present in this case.

Notwithstanding these principles, however, the higher interests of justice and equity demand that we brush aside the procedural norms. After all, rules of procedure are intended to promote rather than defeat substantial justice, and should not be applied in a very rigid and technical sense. Rules of procedure are merely tools designed to facilitate the attainment of justice; they are promulgated to aid the court in the effective dispensation of justice. The Court has the inherent power and discretion to amend, modify or reconsider a final judgment when it is necessary to accomplish the ends of justice.[26]

If the rigid application of the Rules would frustrate rather than promote justice, it is always within the Court's power to suspend the Rules or except a particular case from its operation.[27] The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final.[28]

The present case is peculiar in the sense that it involves three final and executory judgments. The first is this Court's Decision in G.R. Nos. 92871 and 92860 which upheld the sale of the whole property by the Jomoc heirs, including the herein respondents, to petitioner Maura So. The second is the Court's Resolution in G.R. No. 110661, which sustained the order of execution of the said decision against the herein respondents despite the fact that they were not party-defendants in the first case. And the third is the Court's Minute Resolution in G.R. No. 118050 which denied Maura So's petition for review of the RTC Decision granting respondents' right to redeem the property.

It is the third judgment that is apparently in conflict with the two previous judgments. It rendered final and executory the April 27, 1994 Resolution of the RTC which recognized the right of respondents, as co-owners, to redeem the disputed land from Maura So. To recall, the RTC premised its decision on its finding that respondents did not actually sell their shares in the property to Maura So because they did not sign the Deed of Extrajudicial Settlement with Absolute Sale of Registered Land in favor of So; hence, they remained co-owners. This ruling is patently erroneous because this Court had already pronounced in the first two final and executory judgments (in G.R. Nos. 92871 and 92860, and G.R. No. 110661) that the whole property had already been sold to Maura So. The RTC was barred from holding otherwise under the doctrine of conclusiveness of judgment.

The doctrine of "conclusiveness of judgment" precludes the re-litigation of a particular fact or issue already passed upon by a court of competent jurisdiction in a former judgment, in another action between the same parties based on a different claim or cause of action.[29]

In *Collantes v. Court of Appeals*,[30] the Court offered three options to solve a case of conflicting decisions: the first is for the parties to assert their claims anew, the second is to determine which judgment came first, and the third is to determine which of the judgments had been rendered by a court of last resort. In that case, the Court applied the first option and resolved the conflicting issues anew.

Instead of resorting to the first offered solution as in *Collantes*, which would entail disregarding all the three final and executory decisions, we find it more equitable to apply the criteria mentioned in the second and third solutions, and thus, maintain the finality of one of the conflicting judgments. The principal criterion under the second option is the time when the decision was rendered and became final and executory, such that earlier decisions should be sustained over the current ones since final and executory decisions vest rights in the winning party. The major criterion under the third solution is a determination of which court or tribunal rendered the decision. Decisions of this Court should be accorded more respect than those made by the lower courts.

The application of these criteria points to the preservation of the Decision of this Court in G.R. Nos. 92871 and 92860 dated August 2, 1991, and its Resolution in G.R. No. 110661 dated December 1, 1993. Both judgments were rendered long before the Minute Resolution in G.R. No. 118050 was issued on March 1, 1995. In fact, the August 2, 1991 Decision was executed already —respondents were divested of their title over the property and a new title, TCT No. T-68370, was issued in the name of Maura So on July 24, 1992. Further, while all three judgments actually reached this Court, only the two previous judgments extensively discussed the respective cases on the merits. The third judgment (in G.R. No. 118050) was a Minute Resolution, dismissing the petition for review on certiorari of the RTC Resolution in the legal redemption case for failure to sufficiently show that the questioned resolution was tainted with grave abuse of discretion and for being the wrong remedy. In a manner of speaking, therefore, the third final and executory judgment was substantially a decision of the trial court.

Obviously, the complaint for legal redemption was deliberately filed by the respondents with the RTC to circumvent this Court's previous decisions sustaining the sale of the whole property to Maura So. The Court cannot condone this ploy, even if it failed to uncover the same when the case was erroneously elevated to it directly from the trial court (G.R. No. 118050).

The matter is again before this Court, and this time, it behooves the Court to set things right in order to prevent a grave injustice from being committed against Maura So who had, for 15 years since the first decision was executed, already considered herself to be the owner of the property. The Court is not precluded from rectifying errors of judgment if blind and stubborn adherence to the doctrine of immutability of final judgments would involve the sacrifice of justice for technicality.

WHEREFORE, premises considered, the petition is GRANTED. The Decision of the Court of Appeals dated October 18, 2000, and Resolution dated January 11, 2001, are REVERSED. The April 27, 1994 Resolution and September 7, 1994 Order of the RTC are SET ASIDE. The complaint for legal redemption docketed as Civil Case No. 92-135 is DISMISSED.

SO ORDERED.

Ynares-Santiago, J., Chairperson, Austria-Martinez, Corona,[*] and Reyes, JJ., concur.

[*] In lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 484 dated January 11, 2008.

[1] Penned by Associate Justice Candido V. Rivera, with Associate Justices Conchita Carpio Morales (now Associate Justice of the Supreme Court) and Elvi John S. Asuncion, concurring; rollo, pp. 35-40.

[2] Rollo (G.R. No. 92860), pp. 53-55.

[3] Id. at 67-72.

[4] Id. at 58-59.

- [5] Penned by Justice Hugo Gutierrez, Jr. (ret.).
- [6] *Vda. De Jomoc v. Court of Appeals*, G.R. No. 92871, August 2, 1991, 200 SCRA 74.
- [7] *Rollo*, pp. 239-240.
- [8] *Rollo*, pp. 135-136 (emphasis supplied).
- [9] *Id.* at 137-138.
- [10] *Id.* at 137-148.
- [11] *CA rollo*, p. 179.
- [12] *Rollo*, pp. 35-40.
- [13] *Id.* at 60-102.
- [14] *Id.* at 103.
- [15] *Id.* at 105.
- [16] *Id.* at 107.
- [17] *Id.* at 42.
- [18] *Id.* at 232-233.
- [19] *Orbeta v. Sendiong*, G.R. No. 155236, July 8, 2005, 463 SCRA 180, 192.
- [20] *Macalalag v. Ombudsman*, 468 Phil. 918, 923 (2004).
- [21] *Tolentino v. Leviste*, G.R. No. 156118, November 19, 2004, 443 SCRA 274, 285.
- [22] *Silliman University v. Fontelo-Paalan*, G.R. No. 170948, June 26, 2007.
- [23] *Gonzales v. Gonzales*, G.R. No. 151376, February 22, 2006, 483 SCRA 57, 70.
- [24] *Ramos v. Combong, Jr.*, G.R. No. 144273, October 20, 2005, 473 SCRA 499, 504.
- [25] *Sacdalan v. Court of Appeals*, G.R. No. 128967, May 20, 2004, 428 SCRA 586, 599.
- [26] *De Leon v. Balinag*, G.R. No. 169996, August 11, 2006, 498 SCRA 569, 578, citing *Teodoro v. Carague*, 206 SCRA 429 (1992).
- [27] *Grand Placement and General Services Corporation v. Court of Appeals*, G.R. No. 142358, January 31, 2006, 481 SCRA 189, 199-200.
- [28] *Dela Cruz v. Court of Appeals*, G.R. No. 139442, December 6, 2006, 510 SCRA 103, 124.
- [29] *Ybañez v. Court of Appeals*, 323 Phil. 643, 655 (1996).
- [30] G.R. No. 169604, March 6, 2007, 517 SCRA 561, 576.

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