

DR. TERESITO V. ORBETA, ENGRACIA O. HONGCUAY, DEOGRACIAS HONGCUAY, JESUSA VDA. DE ORBETA, CORAZON VDA. DE PINILI, SEGUNDINA T. ORBETA, ALFRED S. ORBETA, MARY ANN S. ORBETA, MARI...

G.R. No. 155236. July 08, 2005

Ponente: TINGA, J.

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TINGA, J.:

The present petition for review under Rule 45 assails a Decision[1] of the Third Division of the Court of Appeals which granted a petition for the annulment of a judgment rendered by a Dumaguete City Regional Trial Court (RTC). We find that the appellate court correctly determined the existence of the requisites for annulment of judgment, and accordingly deny the petition.

The decision sought to be annulled was rendered on 16 April 1998 in Civil Case No. 10173 by the Dumaguete City RTC Branch 44.[2] The facts antecedent to that case and those pertinent to this petition are culled from the decision of the Court of Appeals.[3]

On 24 March 1925, Simeona Montenegro sold to the spouses Maximo Orbeta and Basilisa Teves ("spouses Orbeta") a portion, comprising of 4,622 square meters, of a parcel of land designated as Lot 606 of the Cadastral Survey of the Municipality of Dumaguete ("subject land"), by virtue of a document denominated Escritura de Compra Venta. The subject land was exclusive of a 884-square meter site occupied by the house of Simeona Montenegro's grandmother which was not included in the sale.

On 25 January 1934, Maximo Orbeta, in turn, sold to the spouses Juan Sendiong and Exequila Castellanes the subject land, with all the improvements existing thereon.

On 30 September 1968, upon the instance of the heirs of the spouses Orbeta, Simeona Montenegro executed in their favor a Deed of Confirmation of Sale and Quitclaim, acknowledging and ratifying the sale of the subject land to the spouses Orbeta. On the same day, the said heirs executed an Extra-judicial Settlement and Partition pertaining to the estate of their mother, Basilisa Teves-Orbeta, which deed included the latter's alleged conjugal share in the subject land consisting of 2,311 square meters.

In the meantime or on 29 December 1956, the spouses Juan Sendiong and Exequila Castellanes donated the subject land in favor of Luis Sendiong who thereafter sold the easternmost one-half (1/2) undivided portion thereof to the spouses Pretzylou Sendiong[4] on 9 June 1973. Apparently, Luis Sendiong kept the other undivided half for himself.

Thereafter, Simeona Montenegro, having apparently lost possession over the 884-square meter portion that was excluded in the 1925 sale, filed a complaint on 25 May 1972 against Luis Sendiong for recovery of possession of the said portion, and damages, which was docketed as Civil Case No. 5442 of the Court of First Instance of Negros Oriental. The heirs of Basilisa Teves-Orbeta, for their part, filed a complaint-in-intervention dated 26

December 1973, praying for the recovery of possession of their portion in the subject land comprising of 2,311 square meters. However, during the pendency of this case, the case records were destroyed in a fire which razed the sala of the RTC hearing the complaint. Said records were not reconstituted, and it seems the complaint was never pursued.

On 18 May 1992, the heirs of Simeona Montenegro, as well as the heirs of the spouses Orbeta—herein petitioners ("petitioners")—filed before the RTC of Negros Oriental a complaint against Mr. & Mrs. Benedicto Pajulas, otherwise known as the spouses Pretzylou Sendiong, for recovery of possession, quieting of title and damages, with a prayer for the issuance of a writ of preliminary injunction, docketed as Civil Case No. 10173, entitled "Ma. Luisa C. Locsin, et al. vs. Mr. and Mrs. Benedicto Pajulas @ "Mr. and Mrs. Pretzylou Sendiong." Petitioners asserted that Maximo Orbeta, whom they claim as having sold the subject property to the spouses Juan Sendiong and Exequila Castellanes without the consent of his wife, could have conveyed only his conjugal share in the property—which comprised of 2,311 square meters or one-half of 4,622 square meters of the subject land that Simeona Montenegro had actually sold to spouses Orbeta. The heirs of Simeona Montenegro also reiterated their claim over the 884-square meter portion that had been excluded in the 1925 sale.

In their Complaint, petitioners prayed that they be declared "absolute co-owners" of the subject property except for the "2,311.00 SQUARE METERS conveyed by Maximo Orbeta to Spouses Juan Sendiong and Exequila Castellanes."

In their Answer, dated 11 September 1992, defendant spouses claimed that in the 1925 sale, Simeona Montenegro had actually sold Lot 606 in its entirety, including the aforementioned 884-square meters. Defendant spouses likewise claimed that since 25 January 1934, they, together with the estate of Luis Sendiong, had been in peaceful and open possession, in the concept of an owner and adverse to the whole world, of the entire Lot 606. Pertinently to the present petition, they further alleged that Lourdes Sendiong and herein respondent, Paul Sendiong, being the heirs of Luis Sendiong, should be impleaded as party defendants. Lourdes and Paul Sendiong were children of Luis Sendiong.

On 17 November 1993, defendant spouses filed a motion to dismiss on the ground of lack of cause of action, in view of the fact that the heirs of Luis Sendiong have not been impleaded as indispensable parties. In their vigorous opposition to said motion, petitioners alleged that the heirs of Luis Sendiong are not indispensable parties as they are not in possession of the subject land which was the very issue in said case.

In its Order of 17 December 1993, the trial court denied the motion to dismiss. The trial court, in its Order dated 31 January 1994, also denied the defendant spouses' motion for reconsideration.

On 22 November 1994, the defendant spouses filed a Motion to Include Indispensable Parties, dated 21 November 1994, which was opposed again by petitioners. In its Order, dated 13 March 1995, the trial court denied the aforesaid motion.

After petitioners had rested their case, defendant spouses again filed a Motion to Include Indispensable Parties, which was opposed likewise by petitioners. In support of their motion, defendant-spouses submitted a position paper on 5 June 1997. On 3 December 1997, the trial court denied said motion for lack of merit and trial ensued.

On 16 April 1998, the trial court rendered the decision that was eventually annulled by the Court of Appeals. The trial court found that what Simeona Montenegro had actually sold in 1935 was the subject land, which did not include the 884-square meter portion claimed by her heirs. Accordingly, it recognized the absolute ownership of the Montenegro heirs over the said portion. The trial court also found that the spouses Juan Sendiong and Exequila Castellanes could have only acquired ownership over the conjugal share of Maximo Orbeta in the

subject land considering that the latter had sold the same in 1934 without the consent of his spouse, Basilia Teves-Orbeta. The trial court also declared null and void the sale made by Maximo Orbeta with respect to the conjugal share of his spouse, and ordered the spouses Pretzylou and Genosa Sendiong to restore to petitioners the title to and possession of their respective shares in the subject land.

Pretzylou and Genosa Sendiong^[5] sought to appeal the decision by filing a Notice of Appeal, but the same was denied by the RTC on the ground that the certificate of non forum-shopping was signed by counsel and not by the Sendiongs themselves. The disallowance of the Notice of Appeal was challenged before the Court of Appeals in a Petition for Certiorari, docketed as C.A.-G.R. SP No. 48943, but the petition was denied by the Court of Appeals Fourth Division in a Decision dated 30 June 2000.^[6] A motion for the reconsideration of the Decision was denied in a Resolution dated 8 January 2001.^[7] The appeal not having been given due course, the decision in Civil Case No. 10173 lapsed into finality.

On 28 August 2000, respondent, represented by his attorney-in-fact and daughter Mae A. Sendiong, filed a Petition for Annulment of Decision with a Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction with the Court of Appeals, in respect to the decision in Civil Case No. 10173. Respondent, as petitioner therein, alleged having learned of the decision sought to be annulled only in 1999, as he was not made a party thereto. Asserting his right to the property as an heir of Luis Sendiong, respondent noted that the petitioners did not implead him as a defendant in Civil Case No. 10173, and that the trial court had refused to implead him as an indispensable party despite repeated motions to that effect by the defendants in the civil case. Private respondent argued that the decision in Civil Case No. 10173 encroached on the hereditary rights of himself and Lourdes Sendiong without having "even given the elementary courtesy of due process."^[8] On the premise that he and Lourdes Sendiong were indispensable parties in Civil Case No. 10173 but not made parties thereto, respondent invoked Rule 3, Section 7 of the Rules of Civil Procedure and jurisprudence in positing that the RTC decision was null and void.^[9]

Before the Court of Appeals, petitioners argued that the petition for annulment of judgment was fatally infirm as the certification on non-forum shopping was signed by the attorney-in-fact by virtue of a General Power of Attorney. Petitioners also alleged that the rule on res judicata should apply considering that the issue on whether respondent is an indispensable party had already been passed upon by the Court of Appeals in the decision in C.A.-G.R. SP No. 48943, the petition for certiorari filed by Pretzylou and Genosa Sendiong.

In its Decision dated 20 May 2002, the Court of Appeals granted the petition for annulment of judgment and nullified the decision in Civil Case No. 10173. It ruled that respondent and Lourdes Sendiong were indeed indispensable parties in Civil Case No. 10173, considering that the complaint had prayed that petitioners be declared as absolute co-owners of the subject property. Moreover, petitioners had challenged the validity of the donation of the subject property to Luis Sendiong, predecessor-in-interest of respondent, and accordingly, any judgment regarding petitioners' claims would affect respondent's interests in the subject land. Citing jurisprudence, the appellate court ruled that the absence of an indispensable party in a case renders ineffectual all the proceedings subsequent to the filing of the complaint, including the judgment,^[10] and that all subsequent actuations of the court are null and void for want of authority to act, not only as to the absent parties, but even as to those present.^[11]

The Court of Appeals also ruled that the petition for annulment of judgment was barred neither by estoppel, laches, res judicata nor forum-shopping, contrary to the stance of petitioners.^[12]

Before this Court, petitioners impute several errors on the part of the Court of Appeals in having given cognizance to the petition for annulment of judgment. They cite the failure of the caption of the petition to state the docket

case number in the lower court in contravention of Supreme Court Administrative Circular No. 28-91 (A.C. No. 28-91), the "double violations (sic) of the Anti-Forum (sic) Shopping Rule" premised on the signature of the certification of non-forum shopping having been affixed by attorney-in-fact Mae Sendiong only, and at that only on the basis of a mere General Power of Attorney, as well as on the failure to state in the certification that the matter had already been ventilated before the Court of Appeals in C.A.-G.R. SP No. 48943. Petitioners argue that the petition for annulment is barred by res judicata, as the issue on the "alleged indispensability of Paul Sendiong as party defendant before the Lower Court in Civil Case No. 10173" and the issue of validity of the decision having been passed upon by the Court of Appeals in C.A.-G.R. SP No. 48943. Petitioners also claim that respondent's hereditary rights, interests, and participation in the subject land would remain undisturbed should the RTC decision be actually implemented.

The issues have been threshed out, correctly in our view, by the Court of Appeals. There is hardly need to elaborate why we affirm the appellate court's ruling.

To be certain, annulment of judgment is not a relief to be granted indiscriminately by the courts. Annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy.[13] Under Section 2, Rule 47 of the 1997 Rules of Civil Procedure, the only grounds for annulment of judgment are extrinsic fraud and lack of jurisdiction.[14] If the action is based on extrinsic fraud, it must be brought within four (4) years from discovery, and if based on lack of jurisdiction, before it is barred by laches or estoppel.[15]

Respondent's petition for annulment is grounded on lack of jurisdiction, owing to the failure to implead the indispensable parties. The cited ground is ample basis for annulment of judgment. We have long held that the joinder of all indispensable parties is a condition sine qua non of the exercise of judicial power.[16] The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[17]

It takes no great degree of legal sophistication to realize that respondents Paul Sendiong and Lourdes Sendiong were indispensable parties to Civil Case No. 10173. Paul and Lourdes Sendiong derived their rights to the subject property from their father Luis Sendiong, who acquired the property by way of donation from the spouses Juan Sendiong and Exequila Castellanes, who in turn purchased the property from Maximo Orbeta in 1934. The central thrust of the complaint in Civil Case No. 10173 was that Orbeta could have sold only his one-half conjugal share, which of course is undivided, in the subject land as his wife did not consent to the sale. Accordingly, the prayer in the complaint was that petitioners be declared as the absolute co-owners of the subject land, minus 2,311 square meters which they claimed was the maximum which Maximo Orbeta could have conveyed to Juan Sendiong and Exequila Castellanes. If such thrust and prayer were to be upheld, as it was by the RTC, then all the subsequent transmissions of the subject land from 1934 would be affected, and the rights of ownership acquired by the various successors-in-interest accordingly diminished. This includes the rights of Paul Sendiong and Lourdes Sendiong, who derived their hereditary shares in the property from Luis Sendiong.

As held by the Court of Appeals on this point:

This Court takes notice of the fact that, as can be gleaned from their complaint, private respondents prayed that they be declared as absolute co-owners of Lot 606, except the 2,311 square meters conveyed by Maximo Orbeta to spouses Juan Sendiong and Exequila Castellanes. Indeed, private respondents admittedly recognize petitioner's interest over the subject land, being one of the heirs of Luis Sendiong who acquired the subject land by way of donation from spouses Juan Sendiong and Exequila Castellanes, who in turn acquired the subject land from Maximo Orbeta, the original vendee. Considering private respondents' claim that said donation is invalid, in effect, they admit that there is an actual controversy or cloud in the title or ownership

over the subject land. This is telling proof that a complete adjudication or final determination thereof would require that petitioner, together with Lourdes Sendiong, be impleaded as indispensable parties. Any judgment respecting private respondents' claim would, as a matter of course, affect petitioner's interests over the subject land.

Petitioner, therefore, as an indispensable party, has the right to assert his title over the subject land, and prove the same on the basis of evidence that he might present as against the intertwining and conflicting claims interposed by private respondents and defendant-spouses.

....

Verily, as an heir of Luis Sendiong, the latter having acquired the subject land from spouses Juan Sendiong and Exequila Castellanes, petitioner's right over his share in the estate of his deceased father would be adversely affected by the assailed decision declaring private respondents heirs of Simeona Montenegro and heirs of spouses Orbeta, as co-owners of the portion of the subject land consisting of 884 square meters and 2,311 square meters, respectively, which consequently encroached upon his share as heir of Luis Sendiong as it involves a question of ownership and not merely of possession.

Needless to state, considering that the complaint was for quieting of title of the subject land, said heirs of Luis Sendiong should have been impleaded as indispensable parties for the assailed decision to bind and affect their interests. In like manner, when an action involves reconveyance of property, owners of property over which reconveyance is asserted are indispensable parties, without whom no relief is available and without whom the court can render no valid judgment and it is the duty of the plaintiffs to implead all the necessary or indispensable parties for the complete determination of the action as a person not included as a party to a case cannot be bound by the decision made by a court.[18]

Indeed, the Court could not see how or why respondent and Lourdes Sendiong could not have been impleaded in Civil Case No. 10173 before the RTC. In the answer filed by the defendants in Civil Case No. 10173, the matter of the indispensable inclusion of Paul and Lourdes Sendiong was already raised. Petitioners could have easily amended their complaint to that effect, but they did not. The RTC could have required the inclusion of Paul and Lourdes Sendiong as party-defendants, as prayed for by the defendants in Civil Case No. 10173, but it refused to do so. The shared intransigence of petitioners and the RTC in refusing to implead Paul and Lourdes Sendiong has resulted in the ignominy of a void decision.

The foregoing premises considered, the Court cannot seriously consider petitioners' contention that respondent's hereditary rights, interests and participation over the subject land would not be adversely affected by their complaint.

Petitioners allege that the question in Civil Case No. 10173 involves only the recovery of possession from Pretzylou Sendiong of property which they allege is rightfully theirs. However, such allegation is belied by the very complaint, which plainly prays that petitioners be adjudged absolute co-owners of half of the subject land. Besides, as pointed out by the Court of Appeals, the RTC itself ruled against the validity of the conveyance by Maximo Orbeta to Juan Sendiong and Exequila Castellanes of the whole property, a declaration that indubitably affects the rights of all the successors-in-interests, including respondent.

Now, the matter of whether respondent is otherwise barred from seeking the annulment of judgment by estoppel, laches, or procedural infirmities.

Neither laches nor estoppel serves as a bar. The petition for annulment alleges that respondent learned of the existence of Civil Case No. 10173 only in 1999, or one year after the decision therein had been rendered. Since he was not impleaded in Civil Case No. 10173, there is no basis to presume that respondent was aware of the civil

case during its pendency before the RTC. Moreover, at the time respondent according to petitioners learned of the civil case, there was no pending appeal from the RTC decision therein, the Notice of Appeal having been earlier denied. Under these circumstances, it would be difficult to discern how in 1999 respondent could have still participated in Civil Case No. 10173. There was no pending appeal to speak of which he could have involved himself. Nor could have he participated in the special civil action for certiorari, an original action, then pending before the Court of Appeals.

Indeed, a petition for annulment of judgment was, at that point, the only viable remedy for respondent to avail of,[19] and it was utilized only one year after respondent learned of the existence of Civil Case No. 10173. Laches has been defined as the failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier—negligence or omission to assert a right within a reasonable time, warranting presumption that the party entitled to assert it has abandoned it or declined to assert it.[20] Considering that a petition for annulment of judgment based on extrinsic fraud may be filed within four (4) years from discovery of the fraud, a similar petition based on lack of jurisdiction is generally not barred by laches or estoppel if the petition is filed within one year after petitioner learns of the questioned decision. This moreover holds true, as in this case, since respondent is a foreign resident restrained by time and distance to undertake an immediate and proximate response, such as judicial recourse.

Petitioners argue that the petition for annulment of judgment is barred by res judicata, "as the issues on the alleged indispensability of 'Paul Sendiong' as party defendant before the [l]ower [c]ourt in Civil Case No. 10173 and the validity of the [l]ower [c]ourt's Decision thereof [has] already been passed upon by the Honorable Court of Appeals in its Decision in CA-G.R. SP No. 48943, as aforesated." The argument as stated by the petitioners is barely comprehensible, but there is no way the petition for annulment of judgment could be barred by res judicata.

To begin with, it is the height of sophistry to argue that res judicata would bar a petition for annulment of judgment whose, as in this case, prior judgment happens to be that which is sought to be annulled. The petition for annulment of judgment precisely challenges the validity of the "first judgment," and to adopt petitioners' argument would lead to permanent preclusion of annulment of judgment as a remedy. Significantly, the reverse is true for the rationale underlying annulment of judgment is incongruent with the concept of res judicata. Hence, the action for annulment of judgment precludes the defense of res judicata. The grounds for annulment of judgment are either lack of jurisdiction or the presence of extrinsic fraud in the rendition of the judgment sought to be annulled. On the other hand, among the requisites of res judicata are jurisdiction on the part of the court rendering the first judgment over the parties and identity of causes of action between the first and the second actions.[21] Ineluctably, said requisites are absent. The first judgment, in Civil Case No. 10173, pertains to the merits of the action for recovery of possession, quieting of title, and recovery of damages, whereas the cause of action in the petition for annulment relates to the lack of jurisdiction that marred the rendition of the first judgment.

The element of identity of parties is likewise not present. Respondent was not a party to either Civil Case No. 10173 or CA-G.R. SP No. 48943.

The judgment in CA-G.R. SP No. 48943 is no bar to the petition for annulment as well. There is neither identity of parties or identity of causes of action as between the certiorari petition and the petition for annulment of judgment. Petitioners claim that "the alleged exclusion of indispensable party Paul Sendiong . . . had already been ventilated before the [Court of Appeals] in CA-G.R. SP No. 48943, . . . which was TERSELY DISMISSED per Decision promulgated on June 30, 2000." The eleven-page Decision of the Court of Appeals in CA-G.R. SP No. 48943 hardly constitutes a "terse dismissal" except perhaps in the land of the long-winded, but a perusal of the said Decision reveals no discussion at all about impleading Paul Sendiong in Civil Case No. 10173.

In fact, the only mention made of respondent in the aforesaid Decision was in the narration of facts. The adjudication of CA-G.R. SP No. 48943, as expressed in the Decision, was limited to the propriety of the denial of the Notice of Appeal in Civil Case No. 10173. The appellate court upheld the denial on the ground that there was no written explanation as to why the Notice of Appeal was served by registered mail instead of personal service.[22] No other matter was discussed by the Court of Appeals therein, certainly none on the merits of the Civil Case. In fact, the Decision ends with the caveat: "This Court is confronted only with the procedural aspect of the case." [23]

The remainder of petitioners' arguments are similarly without merit. Petitioners assert that respondent submitted a "false certification" on non-forum shopping, primarily on the ground that the said certification was signed not by respondent, but by his daughter, Mae Sendiong, by authority of a General Power of Attorney, which petitioners claim was not specified for the purpose of filing the petition. However, a perusal of the General Power of Attorney shows that Mae Sendiong is empowered, among others, "to execute, sign, authenticate, and enter into any and all contracts and agreements for me and in my name with any person or entity," and "to bring suit, defend and enter into compromises in my name and stead, in connection with actions brought for or against me, of whatever nature and kind." [24]

The signing of the verification and certification of non-forum shopping are covered under the said provisions of the General Power of Attorney. A special power of attorney simply refers to a clear mandate specifically authorizing the performance of a specific power and of express acts subsumed therein,[25] and there is a specific authority given to Mae Sendiong to sign her name in behalf of Paul Sendiong in contracts and agreements and to institute suits in behalf of her father. Neither would the fact that the document is captioned "General Power of Attorney" militate against its construction as granting specific powers to the agent pertaining to the petition for annulment of judgment she instituted in behalf of her father. As Justice Paras has noted, a general power of attorney may include a special power if such special power is mentioned or referred to in the general power.[26]

The certification of non-forum shopping in the petition for annulment did not mention any other pending case or claim, notwithstanding the fact that there was a pending motion for reconsideration lodged before the Court of Appeals in CA-G.R. SP No. 48943.[27] Yet the Court of Appeals also adequately discussed, in disputing the claim that respondent had committed forum-shopping, why there was no identity in rights or causes of action in the petition for annulment of judgment and in the special civil action for certiorari. Its conclusion is in concurrence with our earlier discussion on this point in relation to *res judicata*. Accordingly, owing to the segregate identity in rights and causes of action and the fact that respondent was not a party to the certiorari petition, there was no indubitable need for him to mention CA-G.R. SP No. 48943 in the certification of non-forum shopping. In fact, there really is no cause to definitively presume that he was aware of the said case considering that he was not a party to its antecedent civil case.

We have saved the least tenable of the arguments presented for last. Petitioners argue that the petition for annulment should have been dismissed outright for failing to cite the docket number of the case in the lower court, pursuant to A.C. No. 28-91,[28] promulgated as it was to prevent forum-shopping or multiple filing of petitions and complaints.

This claim relies upon the mother of all technicalities, but one which is not even supported by A.C. No. 28-91, which provides that "any violation of this Circular shall be cause for the summary dismissal of the multiple petition or complaint." In short, dismissal of a petition for violation of A.C. No. 28-91 obtains only if the petition can be considered a multiple petition or complaint, and not simply because the docket number of the lower court case was not mentioned in the complaint. Besides, as pointed out by respondent, the docket number of the lower court case is mentioned in the body of the petition.

And even if A.C. No. 28-91 could be construed as authorizing the dismissal of a petition for failing to state the docket number of the lower court decision, the relative weight of all things must be considered, particularly the degree of distress on respondent due to the deprivation of his property without being afforded the opportunity to defend his claims. When gauged against the denial of respondent's right to due process of law, the purported "violation" by Paul Sendiong of A.C. No. 28-91 does not amount to a hill of beans.

WHEREFORE, the Petition is DENIED and the assailed judgment of the Court of Appeals is AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Justice J. Guevara-Salonga, concurred in by Justices E. Verzola and B. Abesamis. Rollo, pp. 149-164.

[2] Penned by Judge A.L. Tan. Rollo, pp. 50-63.

[3] Supra note 1.

[4] Also identified in the records as spouses Benedicto Pajulas. "Pretzylou" also appears in other parts of the record as "Pretzy Lou." *Infra*. It is alleged by Pretzylou Sendiong that he (or she) is a child of Luis Sendiong, see Rollo, p. 38, but the Court could not definitively ascertain such fact. Private respondent Paul Sendiong, a son of Luis Sendiong, does not aver before this Court that Pretzylou Sendiong is an issue of Luis. Moreover, there is a genuine mystery as to the identity of Pretzylou Sendiong. It appears from the records that Pretzylou Sendiong is apparently married to Genisa (or Genosa) Sendiong, but petitioners claimed in their complaint that Pretzylou Sendiong is actually "Benedicto Pajulas." The mystery is further heightened by the unusual names of the spouses Sendiong. In any event, the identity of Pretzylou Sendiong is not material to the resolution of this petition, and this observation is adduced for clarificatory purposes only.

[5] Supra note 4.

[6] Penned by Justice F. Martin, Jr., and concurred in by Justices S. Valdez, Jr. and R. Salazar-Fernando. Rollo, pp. 64-74.

[7] *Id.* at 75.

[8] *Id.* at 88.

[9] *Id.* at 88-90.

[10] *Galarosa v. Valencia*, G.R. No. 109455, November 11, 1993, 227 SCRA 728, cited in Rollo, p. 159.

[11] *Lim Tanhu v. Ramolete*, No. L-40098, August 29, 1975, 66 SCRA 425, *id.*

[12] Rollo, pp. 160-163.

[13] *Espinosa v. Court of Appeals*, G.R. No. 128686, 28 May 2004, 430 SCRA 96; *Barco v. Court of Appeals*, G.R. No. 120587, 20 January 2004, 420 SCRA 162. "It was only in the 1997 Rules of Civil Procedure that for the first time the procedure for the annulment of judgments or final orders and resolutions in civil cases of regional trial courts, through a petition before the Court of Appeals, was formally provided. Rule 47 thereof under which the procedure was integrated incorporates settled jurisprudence on annulment of judgment." *Barco*, *id.*

[14] See Section 2, Rule 47, Rules of Civil Procedure.

[15] Section 3, Rule 47, Rules of Civil Procedure.

[16] See *Borlasa v. Polistico*, 47 Phil. 345, 347 (1925); *Arcelona v. Court of Appeals*, 345 Phil. 250, 267 (1997); *Metropolitan Bank and Trust Co. v. Alejo*, 417 Phil. 303 (2001).

[17] *Arcelona v. Court of Appeals*, supra note 16; citing *Lim Tanhu v. Ramolete*, 66 SCRA 425, 448, August 29, 1975; *Director of Lands v. Court of Appeals*, 93 SCRA 238, 248, September 25, 1979; and *Alabang Development v. Valenzuela*, 116 SCRA 261, 277, August 30, 1982.

[18] Rollo, pp. 156-158.

[19] Nor could respondent avail of either a motion for new trial under Rule 37, or a petition for relief from judgment under Rule 38, as both rules speak of a party to the case as the petitioner/movant under such circumstances. Respondent herein was precisely not impleaded as a party, thus the reliefs under Rule 37 and Rule 38 are not available to him. On the other hand, Rule 47 on annulment of judgments does not make any qualification that the petitioner must have been a party to the case resulting in the judgment sought to be annulled.

[20] *Aragon v. Court of Appeals*, 337 Phil. 289 (1997).

[21] The requisites for the establishment of *res judicata* are:

(a)

there must be a final judgment or order;

(b)

the Court rendering the same must have jurisdiction over the subject matter and the parties;

(c)

the judgment or order must be on the merit; and

(d)

there must be between the two (2) cases identity of parties, identity of subject matter and identify of causes of action.

See, e.g., *Casil v. CA*, G.R. 121534, January 28, 1998, 285 SCRA 264.

[22] Rollo, p. 72. The appellate court's ruling on this point might strike as atypically strict, but this Decision is not subject to the Court's present review.

[23] *Id.* at 74.

[24] *Id.* at 93.

[25] *Bacaltos Coal Mines, Inc. v. Court of Appeals*, 315 Phil. 506 (1995). See also *Strong v. Repide*, 6 Phil. 680 (1906).

[26] PARAS, V CIVIL CODE OF THE PHILIPPINES ANNOTATED (Fifth ed., 1990), at 675.

[27] It would of course be specious to have required respondent to have mentioned Civil Case No. 10173 in the certification of non forum-shopping, considering that the petition itself is devoted to having the decision in the said case annulled.

[28] "1. Caption of petition or complaint. - The caption of the petition or complaint must include the docket number of the case in the lower court or quasi-judicial agency whose order or judgment is sought to be reviewed." See A.C. No. 28-91.

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