

HEIRS OF PANFILO F. ABALOS, Petitioners, vs. AURORA A. BUCAL, DEMETRIO BUCAL, ARTEMIO F. ABALOS, LIGAYA U. ABALOS, ROMULO F. ABALOS, JESUSA O. ABALOS, MAURO F. ABALOS and LUZVIM...

G.R. No. 156224. February 19, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

This petition for review on certiorari under Rule 45 of the Rules on Civil Procedure assails the August 31, 2001 Decision[2] and November 20, 2002 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 39138, which affirmed with modification the May 25, 1992 Decision[4] of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 39, in Civil Case No. 16289.

Prologue

On October 30, 1978, petitioners' father, Panfilo Abalos, filed before the RTC of Lingayen, Pangasinan, a complaint[5] docketed as Civil Case No. 15465 for Partition, Annulment of Certain Documents, Accounting and Damages against Faustino Abalos, his brother, and Danilo Abalos, his nephew and the only surviving heir of his brother Pedro Abalos. In the amended complaint,[6] Panfilo alleged that their father/grandfather, Francisco Abalos, died intestate and was survived by his wife, Teodorica, and their children, namely: Maria, Faustino, Pedro, Roman and Panfilo; that at the time of his death, Francisco left the following real properties:

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a.)

A parcel of residential land situated in Linoc, Binmaley, Pangasinan, containing an area of 1,020 sq. meters, bounded on the North by Leoncio Dalmacio; On the East by Dimas Perez; On the South by Callejon; And on the West by Magno Dalmacio; declared under Tax Declaration No. 121 in the name of Francisco Abalos and assessed at P255.50; [n]ot registered under Act 496 [or] under the Spanish [M]ortgaged Law[;]

b.)

A parcel of unirrigated riceland situated in Linoc, Binmaley, Pangasinan, containing an area of 841 sq. meters, bounded on the North by Callejon; On the South by Roberto Aquino; On the East by Eulalio Javier; And on the West by Hipolito Perez. It is originally covered by Tax Declaration in the name of Francisco Abalos now covered by Tax Declaration No. 14457 in the name of Faustino Abalos and assessed at P20.00[;] [n]ot registered under Act 496 [or] under the Spanish [M]ortgaged Law;

c.)

A parcel of unirrigated riceland situated in Linoc, Binmaley, Pangasinan, containing an area of 1,196 sq. meters,

bounded on the North by Callejon; On the East by Estanislao Ferrer; On the South by Saturnino Aquino; And on the West by Hipolito Perez[.] It is originally declared in the name of Francisco Abalos and now covered by Tax Declaration No. 14458 in the name of Faustino Abalos and assessed at P30.00;

d.)

A parcel of fishpond situated in Linoc, Binmaley, Pangasinan, containing an area of 1,158 sq. meters, bounded on the North by Doyao River; On the East by Hipolito Perez; On the South by Leoncio Dalmacio; And on the West by Teodoro Abalos. It is originally declared in the [name] of Francisco Abalos and now covered by Tax Declaration No. 21592 in the name of Faustino Abalos and assessed at P370.00;

e.)

A parcel of fishpond situated in Linoc, Binmaley, Pangasinan, containing an area of 1,158 sq. meters, bounded on the North by Leoncio Dalmacio; On the East by Teodoro Abalos; On the South by Leoncio Dalmacio; And on the West by Evaristo Dalmacio. It is originally declared in the name of Francisco Abalos and now covered by Tax Declaration No. 21591 in the name of Faustino Abalos and assessed at P370.00;

f.)

A parcel of unirrigated riceland situated in Linoc, Binmaley, Pangasinan, containing an area of 950 sq. meters[,] bounded on the North by Liberato Gonzalo; On the East by Severina Catalan; On the South by Severina Catalan; And on the West by Barrio Road of Linoc[;] [d]eclared under Tax Declaration No. 124 in the [name] of Francisco Abalos and [a]ssessed at P20.00;

g.)

A parcel of fishpond situated in Canaoalan, Binmaley, Pangasinan, containing an area of 2,480 sq. meters, bounded on the North by Francisco Deogracias; On the East by a Path; On the South by Ponciano Cayabyab; And on the West by Ponciano Cayabyab[;] [d]eclared under Tax Declaration No. 122 in the name of Francisco Abalos and assessed at P70.00;

h.)

A parcel of fishpond situated in Canaoalan, Binmaley, Pangasinan, containing an area of 1,585 sq. meters, bounded on the North by Adriano Gonzalo; On the East by Florencio Perez; On the South by Pioquinto Ferrer; And on the West by Pator Terrado[;] [d]eclared under Tax Declaration No. 123 in the name of Francisco Abalos and assessed at P60.00;

i.)

A parcel of little fishpond adjoining and North of the land described in paragraph 4 sub-paragraph (a) of this complaint whose Tax Declaration could not be produced by the plaintiff;[7]

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that said properties were administered by Teodorica; that following their mother's death, there was a verbal agreement among Faustino, Pedro and Panfilo that Faustino would administer all the properties left by their parents except those given by Teodorica to each of the siblings as their partial advance inheritance; that taking undue advantage of his position and in clear breach of the trust and confidence reposed on him, Faustino, by means of fraud and machination, took possession of the properties given to Maria and Roman upon their death and transferred some of the administered properties in his name and/or in the name of his heirs or disposed of them in favor of third parties; that since his administration of the properties, Faustino has not made any

accounting of the produce, appropriating them almost to himself; and that Panfilo repeatedly demanded the partition of the properties but Faustino refused to do so despite earnest efforts towards amicable settlement.

After Panfilo rested his case and following the postponements at the instance of defendants, the trial court, upon motion, declared that Faustino and Danilo were deemed to have waived their right to present evidence.[8] On February 21, 1984, RTC Branch 37 of Lingayen, Pangasinan, rendered its Decision,[9] the dispositive portion of which stated:

WHEREFORE, judgment is hereby rendered ordering:

- the partition of the intestate estate of the deceased Francisco Abalos in the following manner
- to the plaintiff, Panfilo Abalos, is the fishpond, Parcel D referred to as “Duyao”; and ½ of fishpond, Parcel H referred to as “Pinirat” plus his advance inheritance, Parcel F referred to as “Manga”;
- to defendant, Faustino Abalos, is the residential land where his house stands and parcels A to I, plus his advance inheritance, Parcels [B] and C;
- to defendant, Danilo Abalos, is that fishpond, parcel E referred to as “Emong,” and the ½ portion of the fishpond, Parcel H referred to as “Pinirat” and his advance inheritance of his father Pedro Abalos, Parcel G.
- the defendant Faustino Abalos to reimburse to plaintiff the total amount of P19,580.00, Philippine Currency, as plaintiff’s lawful share from 1944;
- the annulment of all documents and/or instruments which transferred said properties and are considered inconsistent with the above partition;
- the dismissal of defendants’ counterclaim;
- the defendants to pay the costs of the suit.

SO ORDERED.[10]

Despite the filing of a notice of appeal beyond the reglementary period, the trial court still gave due course to the appeal of Faustino and Danilo; thus, Panfilo filed a petition for certiorari before this Court, which subsequently referred the case to the Intermediate Appellate Court (IAC, now the Court of Appeals).[11] The IAC granted the petition and denied the motion for reconsideration.[12] On October 30, 1985, this Court affirmed the Decision.[13] Upon the issuance of an entry of judgment on November 4, 1985, the IAC ordered the remand of the case to the RTC.[14] Thereafter, on December 11, 1985, the trial court issued a writ of execution in favor of Panfilo.[15]The Case

The instant case arose when petitioners’ father, Panfilo, began to execute the Decision in Civil Case No. 15465. In opposition, respondents, who are children and in-laws of the now deceased Faustino, filed on January 8, 1986 a case for Quieting of Title, Possession, Annulment of Document and Damages with Preliminary Injunction.[16] Docketed as Civil Case No. 16289, the complaint alleged, among others, that:

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III

Plaintiffs are the absolute owners and in actual possession of the following parcels of land more particularly described, to wit:

(a.) A parcel of land (fishpond) with an approximate area of 289.5 square meters, more or less, located at Linoc, Binmaley, Pangasinan. Bounded on the North by the Duyao River; on the East by Faustino Abalos

before, now Romulo Abalos; on the South by Leoncio Dalmacio; and on the West by Romulo Abalos. Declared in the name of Aurora A. Bucal under Tax [Dec.] No. 1568 of the current land records of Binmaley, Pangasinan; assessed value – P150.00;

(b.) A parcel of riceland located at Linoc, Binmaley, Pangasinan, containing an area of 1,196 square meters, more or less. Bounded on the North by Callejon; on the East by Estanislao Ferrer; on the South by Saturnino Aquino; and on the West by Hipolito Ferrer. Declared in the names of Artemio F. Abalos and Mauro F. Abalos under Tax [Dec.] No. 1007 of the land records of Binmaley, Pangasinan; assessed value – P260.00;

(c.) A parcel of residential land located at Linoc, Binmaley, Pangasinan, with an area of 1,029 square meters, more or less. Bounded on the North by Leoncio Dalmacio; on the East by Dimas Perez; on the South by Callejon; and on the West by Magno Dalmacio. Declared in the name of Romulo F. Abalos under Tax [Dec.] No. 35 of the current land records of Binmaley, Pangasinan; assessed value – P6,120.00;

(d.) A portion of fishpond located at Linoc, Binmaley, Pangasinan, with an area of 289.5 square meters, more or less. Bounded on the North by the Duyao River; on the East by Faustino Abalos; on the South by Leoncio Dalmacio; and on the West by Teodoro Abalos. Declared in the name of Romulo F. Abalos under Tax [Dec.] No. 33 of the current land records of Binmaley, Pangasinan; assessed value – P180.00;

(e.) A portion (eastern) of fishpond located at Linoc, Binmaley, Pangasinan, with an area of 579 square meters, more or less. Bounded on the North by Leoncio Dalmacio; on the East by Teodoro Abalos; on the South by Leoncio Abalos; and on the West by Evaristo Dalmacio. Declared in the names of Artemio F. Abalos and Mauro F. Abalos under Tax [Dec.] No. 1009 of the land records of Binmaley, Pangasinan; assessed value – P340.00;

(f.) A parcel of fishpond located at Canaoalan, Binmaley, Pangasinan, with an area of 1,506 square meters, more or less. Bounded on the North by Adriano Gonzalo; on the East by Florencio Perez; on the South by Pioquinto Ferrer; and on the West by Pastor Terrado. Declared in the names of Romulo F. Abalos and Mauro F. Abalos under Tax [Dec.] No. 1314 of the land records of Binmaley, Pangasinan; assessed value – P970.00;

IV

Parcel (a) above-described belongs in absolute ownership to spouses Aurora A. Bucal and Demetrio Bucal who are in actual possession thereof as such, having acquired the same by absolute sale from Romulo F. Abalos who in turn bought the same from Maria Abalos; that the latter in turn acquired the same by inheritance from her deceased parents, Francisco Abalos and Teodorica Ferrer, who died on May 4, 1928 and June 2, 1945, respectively. A copy of the sale from Maria Abalos to Romulo F. Abalos is hereto attached as ANNEX “A” while the sale by Romulo F. Abalos to Aurora A. Bucal is hereto attached as ANNEX “B”. A copy of Tax [Dec.] No. 1568 covering said land is hereto attached as ANNEX “C”;

V

Parcel (b) above-described belongs in absolute common ownership to the spouses Artemio F. Abalos and Ligaya U. Abalos and spouses Mauro F. Abalos and Luzviminda R. Abalos who acquired the same by absolute sale in 1978 from Faustino Abalos as shown by a deed a copy of which is hereto attached as ANNEX “D”; that the latter acquired the same by absolute sale from Bernardo Victorio in 1914, and that Faustino Abalos donated the same in consideration of his marriage with Teodora Ferrer as shown by a deed a copy of which is hereto attached as ANNEX “E”. A copy of Tax [Dec.] No. 1007 is hereto attached as ANNEX “F”;

VI

Parcel (c) above-described belongs in absolute ownership to the spouses Romulo F. Abalos and Jesusa O. Abalos and are in actual possession as such having acquired the same by absolute sale from Aurora A. Bucal as shown by a deed a copy of which is hereto attached as ANNEX “G”; that Aurora A. Bucal in turn bought the

same from Maria Abalos as shown by a deed a copy of which is hereto attached as ANNEX “H”; and that Maria Abalos inherited the same land from her deceased parents;

VII

Parcel (d) above-described belongs in absolute ownership to spouses Romulo F. Abalos and Jesusa O. Abalos having acquired the same in 1978 by means of a deed of quitclaim and renunciation of rights a copy of which is hereto attached as ANNEX “I”; that Romulo F. Abalos declared the same for taxation purposes as shown by Tax [Dec.] No. 33 a copy of which is hereto attached as ANNEX “J”;

VIII

Parcel (e) above-described belongs in common absolute ownership to the spouses Artemio F. Abalos and Ligaya U. Abalos and spouses Mauro F. Abalos and Luzviminda R. Abalos having acquired the same from Maria Abalos as shown by two (2) documents copies of which are hereto attached as ANNEXES “K” and “L”; that Faustino and Maria bought the same from Genoveva Perez as shown by a deed a copy of which is hereto attached as ANNEX “M”; that Genoveva Perez in turn bought the same from Teodoro Abalos as shown by a deed a copy of which is hereto attached as ANNEX “N”; that Mauro F. Abalos and Artemio F. Abalos have declared the land in their names for taxation purposes as shown by Tax [Dec.] No. 1009 a copy of which is hereto attached as ANNEX “O”;

IX

Parcel (f) above-described belongs in absolute common ownership to spouses Romulo F. Abalos and Jesusa O. Abalos and spouses Mauro F. Abalos and Luzviminda R. Abalos and are in actual possession as such having acquired the same by absolute sale in 1978 as shown by a deed a copy of which is hereto attached as ANNEX “P”; that Faustino in turn inherited the same from his deceased parents; and that the present owners have declared the same for taxation purposes as shown by Tax [Dec.] No. 1314 a copy of which is hereto attached as ANNEX “Q”;

X

The possession of the present owners as well as their predecessors-in-interest have always been in good faith, peaceful, public, exclusive, adverse, continuous and in the concept of absolute owners since their respective acquisition [up to] the present without question from anyone, much less from the defendant herein. Said owners have likewise religiously paid the taxes due on the lands [up to] the current year;[17]

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Respondents claimed that on two separate occasions in December 1985 Panfilo sought to execute the decision by attempting to take possession of the lands in question through the use of force, threat, violence and intimidation. In addition, to satisfy the damages awarded to Panfilo, the deputy sheriff also levied upon parcels (b) and (c) above-described for the purpose of selling the same at public auction, in regard to which they also filed their respective notice of third-party claim. Respondents argued that to compel them to abide by the writ of execution and notice of levy issued by the court in Civil Case No. 15465 would amount to deprivation of property without due process of law because the decision rendered in said case is not binding upon them as they were not made parties thereto and they became owners thereof prior to the institution of the case.

On January 8, 1986, the trial court directed the parties to maintain the status quo pending the resolution on the motion for the issuance of the writ of preliminary injunction.[18][19]

In the Objection to the Issuance of Writ of Preliminary Injunction,[20] Answer,[21] and Memorandum of Authorities[22] filed by Panfilo, he stressed that the title, right or interest of respondents with respect to the

fishponds mentioned in sub-paragraphs (a), (d), and (f) of paragraph III of the Complaint had already been declared null and void in Civil Case No. 15465 by a co-equal and competent court and affirmed with finality by this Court. It was averred that respondents were never in possession of the fishponds as he was the one peacefully placed in its possession by the deputy sheriff. For failing to intervene in Civil Case No. 15465, Panfilo asserted that respondents are now barred by the principles of *res judicata* and *estoppel in pais*.

On July 21, 1986, however, the trial court ordered the issuance of a writ of preliminary injunction.[23] Concurring with the position of respondents, it held that the principle of *res judicata* does not apply since there is no identity of parties, subject matter, and causes of action between Civil Case No. 15465 and the present case. In Civil Case No. 15465, the parties are Panfilo, as plaintiff, and Faustino Abalos and Danilo Abalos, as defendants, while in the present case, the parties are the children of Faustino Abalos and their respective spouses, as plaintiffs, and Panfilo, as defendant; in the former, the principal action is for partition while in the latter, the suit is for quieting of title, possession, annulment of document and damages. The trial court opined that while it is true that respondents Aurora, Artemio, Romulo, and Mauro are legitimate children and compulsory heirs of Faustino Abalos, the documents showing their acquisition of the properties in question revealed that they became owners thereof not through their father alone but also by way of third persons who were not parties in Civil Case No. 15465. Moreover, they acquired their ownership prior to the institution of said case.

Assailing the aforesaid Order, Panfilo filed a petition for certiorari before this Court. In a Resolution, the petition was referred to the CA, which later dismissed the same for lack of merit.[23] The CA ruled that, for not being impleaded as parties, respondents are considered as “third persons” in Civil Case No. 15465 since they did not in any way participate or intervene in the partition. Neither did the trial court violate the principle that no court has the power to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction having equal power. The CA viewed that the writ of execution was issued for the specific purpose of levying upon the properties of Faustino Abalos, not that of respondents, as the judgment debtor in Civil Case No. 15465.

On December 16, 1987, this Court, in G.R. No. 77965 entitled “Panfilo Abalos v. Aurora Bucal, et al. and Court of Appeals,” affirmed the CA decision, which resolution became final and executory on August 2, 1988.[24]

Upon motion of respondents, the trial court ordered the issuance of an alias writ of preliminary injunction on March 14, 1989.[25] Again, Panfilo challenged the order via petition for certiorari with prohibition before the CA but the same was denied.[26] When the incident was elevated to this Court, it was dismissed on November 15, 1989. The resolution became final and executory on February 9, 1990.[27]

Meanwhile, in the proceedings before the trial court, Panfilo and respondents submitted their respective pre-trial briefs.[28] On October 23, 1989, the trial court issued the Pre-trial Order.[29] Taking into account the admissions made by the parties, particularly the fact that Panfilo claimed proprietary rights only with respect to parcels (a), (d) and (f) mentioned in the complaint, the court delimited the issues for resolution as follows:

The factual issues are: (1) With respect to parcels A, D, and F, whether or not the plaintiffs claiming ownership and possession over said parcels are the lawful owners and possessors thereof by virtue of genuine and duly executed documents of sale, quitclaim and renunciation of rights; (2) Whether or not plaintiffs’ predecessors-in-interest were the lawful owners and possessors of parcels A, D and F; (3) Whether or not Faustino Abalos and his wife [Teodorica] Ferrer were awarded the properties subject of partition proceedings in Civil Case No. 15465; (4) Whether or not by virtue of the decision rendered in that partition proceedings, the fishpond referred to as Duyao which is parcel A, D and F was awarded; (5) Whether or not pursuant to the decision of the Supreme Court in appealed case No. 713355 the defendant Panfilo Abalos was placed in possession by the Deputy Sheriff Romulo Jimenez duly assisted by the members of the police force of

Binmaley, sometime on or about the last part of December 1985.

The legal issues are: (1) Whether or not the decision in Civil Case No. 15465 entitled “Panfilo Abalos versus Faustino Abalos[”] is binding upon the plaintiffs who were not impleaded as party litigants either as plaintiffs or defendants; (2) What is the legal basis of the plaintiffs to file action to quiet title against the defendant?[30]

Likewise, in the course of the trial and in their respective memoranda,[31] the parties admitted that parcels (a) and (d) are portions of a fishpond locally known as Duyao[32] and are parts of parcel (d) stated in the Complaint of Civil Case No. 15465, which was to be held in common pro-indiviso by the heirs of Francisco Abalos.

Thus, the controversy was narrowed down to only two (2) properties, namely: the fishpond located at Linoc, Binmaley, Pangasinan, locally known as Duyao, and the fishpond located at Canaoalan, Binmaley, Pangasinan, locally known as Pinirat.

On May 25, 1992, RTC Branch 39 of Lingayen, Pangasinan, rendered its Decision,[33] ordering thus:

WHEREFORE, judgment is hereby rendered declaring:

- That the plaintiffs-spouses Aurora Bucal and Demetrio Bucal are the absolute owners of one-fourth ($\frac{1}{4}$) portion pro-indiviso of that fishpond which is locally known as Duyao;
- That the defendant Panfilo Abalos is the absolute owner of three-fourth ($\frac{3}{4}$) portion pro-indiviso of that fishpond locally known as “Duyao”;
- That the plaintiffs have no right whatsoever over the fishpond locally known as “Pinirat” and confirming the adjudication thereof in Civil Case No. 15465; [and]
- No award of damages, and no costs.

SO ORDERED.[34]

The trial court made the following factual findings: that the original owners of the two fishponds were spouses Francisco Abalos and Teodorica Ferrer, who died on May 4, 1928 and June 2, 1945, respectively; that the spouses had five (5) children, namely: (a) Maria, who died single on March 20, 1972; (b) Roman, who died single on June 10, 1944; (c) Panfilo, petitioner herein; (d) Pedro, who died on May 11, 1971 and was survived by his only child, Danilo; and (e) Faustino, whose children Aurora, Artemio, Romulo and Mauro are among the respondents herein; that Roman predeceased his mother, hence, when the latter died only four of the siblings inherited the Duyao, becoming its pro-indiviso co-owners; that on November 11, 1968, Maria sold her $\frac{1}{4}$ share to Romulo, who, in turn, sold the same to Aurora; that in view of the sale, the said portion of the Duyao should have been excluded from the Decision in Civil Case No. 15465 for the reason that said case refers to the partition of the estate only of spouses Francisco and Teodorica; that Romulo is not the owner the other $\frac{1}{4}$ portion of the Duyao for failure to establish his ownership thereon and also considering that it could have been the same $\frac{1}{4}$ portion that he sold to Aurora; and that the Decision in Civil Case No. 15465 has res judicata effect with respect to the Pinirat since the deed of sale executed by Faustino in favor of Romulo and Mauro was simulated and employed merely to defraud the other heirs.

Both Panfilo and respondents elevated the case to the CA, assigning the alleged errors of the trial court:

As to Panfilo –

- THE LOWER COURT ERRED IN ADJUDICATING ONE-FOURTH PORTION OF THE FISHPOND KNOWN AS “DUYAO” TO PLAINTIFFS DEMETRIO BUCAL AND AURORA ABALOS- BUCAL, NOTWITHSTANDING THAT SAID ENTIRE FISHPOND WAS AWARDED TO DEFENDANT PANFILO ABALOS IN CIVIL CASE NO. 15465, ENTITLED “PANFILO ABALOS VS. FAUSTINO ABALOS &

DANILO ABALOS.”

- THE LOWER COURT ERRED IN ADJUDICATING ONE-FOURTH PORTION OF THE FISHPOND KNOWN AS “DUYAO” TO PLAINTIFFS DEMETRIO BUCAL AND AURORA ABALOS-BUCAL, AS ALLEGED INHERITANCE OF MARIA ABALOS FROM HER LATE PARENTS, NOTWITHSTANDING THAT MARIA ABALOS ALREADY INHERITED FROM HER LATE PARENTS THE PARCEL OF RESIDENTIAL LAND DESCRIBED AS PARCEL (C) IN PLAINTIFF’S COMPLAINT.
- THE LOWER COURT ERRED IN ADJUDICATING ONE-FOURTH PORTION OF THE FISHPOND KNOWN AS “DUYAO” TO PLAINTIFFS DEMETRIO BUCAL AND AURORA ABALOS-BUCAL, NOTWITHSTANDING THAT THE FINAL DECISION IN CIVIL CASE [15465] EXPRESSLY ANNULLED ALL DOCUMENTS AND INSTRUMENTS WHICH TRANSFERRED SAID PROPERTIES AND ARE CONSIDERED INCONSISTENT WITH THE PARTITION ORDERED IN SAID CIVIL CASE.
- THE LOWER COURT ERRED IN NOT TREATING THE PLAINTIFFS AS IN ESTOPPEL.
- THE LOWER COURT HAD NO JURISDICTION OVER THE SUBJECT MATTER OF THE PRESENT CASE.[35]

As to respondents –

- THE TRIAL COURT ERRED IN NOT FINDING THAT THE LATE SPOUSES FRANCISCO ABALOS AND TEODORICA FERRER LEFT AN INTESTATE ESTATE CONSISTING OF FIVE PARCELS OF LAND ONLY.
- THE TRIAL COURT ERRED IN NOT FINDING THAT ONE-FOURTH PRO INDIVISO OF THE LAND KNOWN AS [“DUYAO”] WAS THE SHARE OF FAUSTINO ABALOS, WHICH HE QUITCLAIMED IN FAVOR OF HIS SON ROMULO ABALOS, AND IN APPLYING RES JUDICATA.
- THE TRIAL COURT ERRED IN NOT FINDING THAT THE LAND KNOWN AS “PINIRAT” WAS THE SHARE OF FAUSTINO ABALOS, WHICH HE SOLD TO HIS SONS, THE PLAINTIFFS ROMULO AND MAURO ABALOS, AND IN APPLYING RES JUDICATA.
- THE TRIAL COURT ERRED IN VOIDING THE INSTRUMENTS OF TRANSFER EXECUTED BY FAUSTINO ABALOS IN FAVOR OF ROMULO ABALOS OF HIS ¼ SHARE OF THE [“DUYAO”] LOT AND IN FAVOR OF MAURO ABALOS AND ROMULO ABALOS OF THE “PINIRAT” LOT.
- THE TRIAL COURT ERRED IN NOT UPHOLDING THE CLAIM OF PLAINTIFF ROMULO ABALOS OVER ¼ OF THE [“DUYAO”] LOT AND THE CLAIM OF PLAINTIFFS MAURO ABALOS AND ROMULO ABALOS OVER THE [“PINIRAT”] LOT.[36]

On August 31, 2001, the CA rendered its Decision.[37] According to the appellate court, the first and second assigned errors of Panfilo are unmeritorious on the ground that the disposition of the trial court in Civil Case No. 15465 insofar as the Duyao is concerned has no factual and legal basis. It also held untenable his third and fourth assigned errors, noting that the principles of res judicata and estoppel are not applicable in this case since respondents were not made parties to Civil Case No. 15465 despite their acquisition of the contested parcels prior to the commencement of said case. Finally, Panfilo’s fifth assigned error was rejected, saying that this Court already settled the issue of res judicata in G.R. No. 77965 when petitioner questioned the propriety of the issuance of the writ of preliminary injunction.

On the other hand, the CA ruled that the first assigned error of respondents was rendered moot and academic since it was stipulated and agreed upon during the pre-trial of the present case that the dispute covers only parcels (a), (d) and (f). The second assigned error, nonetheless, was affirmed, observing that the Duyao property was

co-owned pro-indiviso by the four remaining children of spouses Francisco and Teodorica; hence, Faustino's transfer of his $\frac{1}{4}$ share during his lifetime in favor of his son Romulo is perfectly legal. However, the CA denied the third assigned error as it found that the Pinirat was Roman Abalos' advance legitime, which, upon his death, was inherited by his remaining siblings. Since Maria subsequently died without transferring her share, her part of the Pinirat should be divided among Pedro (which is transmitted to Danilo), Faustino and Panfilo. As Faustino's share over the Pinirat is with respect to $\frac{1}{3}$ portion thereof, he could validly convey only such part to Romulo and Mauro.

The CA disposed:

WHEREFORE, premises considered, the assailed Decision of the court a quo in Civil Case No. 16289 is hereby modified, as follows:

- Being co-owners of Duyao Fishpond, plaintiffs-appellants Spouses Aurora Bucal and Demetrio Bucal, plaintiffs-appellants Spouses Romulo Abalos and Jesusa O. Abalos, defendant-appellant Panfilo Abalos and Danilo Abalos, in representation of his deceased father, Pedro Abalos, should divide and distribute the same equally;
- One-third of the Pinirat Fishpond is co-owned by plaintiffs-appellants Spouses Romulo Abalos and Jesus Abalos, and Spouses Mauro Abalos and Luzviminda R. Abalos; That defendant-appellant Panfilo Abalos is the sole owner of another $\frac{1}{3}$ portion of the Pinirat fishpond; While the remaining $\frac{1}{3}$ portion is for Danilo Abalos, in representation of his deceased father Pedro Abalos;
- No pronouncement as to cost.

SO ORDERED.[38]

Panfilo moved for reconsideration of the Decision but was denied.[39]

Hence this petition.

Echoing the same grounds relied upon by their father, petitioners now claim that the CA seriously erred in failing to consider the finality of the Decision in Civil Case No. 15465. According to them, the finding that respondents became owners of the subject properties prior to the institution of said case in effect modified the disposition and distribution previously ordered. Petitioners opine that when the CA ruled that respondents have acquired ownership of the questioned parcels prior to the commencement of Civil Case No. 15465 it had disregarded the conclusiveness of a final judgment rendered in said case which decreed the annulment of all documents and/or instruments transferring said properties and were considered inconsistent with the order of partition. They contend that sustaining the conclusion of the CA would allow the re-opening of the factual issue of whether the documents, which were the source of respondents' alleged title, were valid – an issue that was dealt with in an extensive hearing on the merits conducted in said case and supported by testimonial and documentary evidence for the purpose. Being the prevailing party in Civil Case No. 15465, in regard to which respondents had remained silent and did not even care to intervene or question, petitioners assert that they already acquired a vested right over the entire Duyao and $\frac{1}{2}$ portion of the Pinirat. They also oppose the CA's failure to recognize that estoppel and laches have already set in to bar respondents from further pursuing their claims.

The petition is not meritorious.

Res judicata means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It lays the rule that an existing final judgment or decree rendered on the merits, without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent

jurisdiction on the points and matters in issue in the first suit.[40]

For the preclusive effect of *res judicata* to be enforced, however, the following requisites must be present: (1) the judgment or order 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 first case must be a judgment on the merits; and (4) there must be between the first and second action, identity of parties, subject matter and causes of action.[41]

In the instant case, the fourth requisite, in particular the identity of parties, is clearly wanting.

As found by the CA, this Court, through our earlier resolution in G.R. No. 77965, already settled that *res judicata* does not apply in this case. In G.R. No. 77965, which Panfilo instituted to challenge the propriety of the writ of preliminary injunction issued by the trial court, this Court agreed with the CA's disposition that respondents are considered as third persons with respect to Civil Case No. 15465 since they were not impleaded as defendants therein. This Court held as in accordance with law and jurisprudence the CA's opinion that all those who did not in any way participate or intervene in the partition case are considered third persons within the contemplation of Article 499 of the Civil Code.[42]

The foregoing rule still stands.

Indeed, Panfilo, the father of petitioners, should have impleaded respondents when he filed Civil Case No. 15465 since at that time the latter were already claiming ownership over the subject fishponds, which were transferred in their names prior to the commencement of the case. Petitioners cannot shift to respondents the burden of joining the case because they are not duty bound to intervene therein and they have every right to institute an independent action: First, intervention is not compulsory or mandatory but merely optional and permissive;[43] and Second, as the persons who are in actual possession of the fishponds they claim to own, respondents may wait until their possession are in fact disturbed before taking steps to vindicate their rights. Understandably, at the time of the institution and pendency of Civil Case No. 15465, respondents still had no definite idea as to how the very nature of the partition case could actually affect their possession.

On the other hand, Panfilo had personal knowledge that respondents acquired ownership of the properties prior to the filing of Civil Case No. 15465, that they are in actual possession thereof, and that they have declared the lands in their names for taxation purposes. Panfilo could not be ignorant of these because he resided in the same locality where the properties are found.[44] Quite startling, however, is that he did not bother to implead respondents in the partition case despite all these and the fact that the defendants therein raised the point that Faustino was not the owner of some of the lands in question and that they belong to others not parties to the case.[45] As his successors-in-interest, petitioners must suffer from Panfilo's evident omission.

Even if *res judicata* requires not absolute but substantial identity of parties, still there exists substantial identity only when the "additional" party acts in the same capacity or is in privity with the parties in the former action.[46] In this case, while it is true that respondents are legitimate children and relatives by affinity of Faustino it is more important to remember that, as shown by their documents of acquisition, they became owners of the subject fishponds not through Faustino alone but also from a third person (i.e., Maria Abalos). Respondents are asserting their own rights and interests which are distinct and separate from those of Faustino's claim as a hereditary heir of Francisco Abalos. Hence, they cannot be considered as privies to the judgment rendered in Civil Case No. 15465. Unfortunately for petitioners, they relied solely on their untenable defense of *res judicata* instead of contesting the genuineness and due execution of respondents' documentary evidence.

Moreover, Panfilo erred in repeatedly believing that there was no necessity to implead respondents as defendants

in Civil Case No. 15465 since, according to him, the necessary parties in a partition case are only the co-owners or co-partners in the inheritance of Francisco Abalos. On the contrary, the Rules of Court provides that in an action for partition, all other persons interested in the property shall be joined as defendants.[47] Not only the co-heirs but also all persons claiming interests or rights in the property subject of partition are indispensable parties.[48] In the instant case, it is the responsibility of Panfilo as plaintiff in Civil Case No. 15465 to implead all indispensable parties, that is, not only Faustino and Danilo but also respondents in their capacity as vendees and donees of the subject fishponds. Without their presence in the suit the judgment of the court cannot attain real finality against them. Being strangers to the first case, they are not bound by the decision rendered therein; otherwise, they would be deprived of their constitutional right to due process.[49]

Finally, it must be stressed that in a complaint for partition, the plaintiff seeks, first, a declaration that he is a co-owner of the subject properties; and second, the conveyance of his lawful shares. An action for partition is at once an action for declaration of co-ownership and for segregation and conveyance of a determinate portion of the properties involved.[50]

Reyes-de Leon v. Del Rosario[51] held:

The issue of ownership or co-ownership, to be more precise, must first be resolved in order to effect a partition of properties. This should be done in the action for partition itself. As held in the case of Catapusan v. Court of Appeals:

‘In actions for partition, the court cannot properly issue an order to divide the property unless it first makes a determination as to the existence of co-ownership. The court must initially settle the issue of ownership, the first stage in an action for partition. Needless to state, an action for partition will not lie if the claimant has no rightful interest over the subject property. In fact, Section 1 of Rule 69 requires the party filing the action to state in his complaint the ‘nature and the extent of his title’ to the real estate. Until and unless the issue of ownership is definitely resolved, it would be premature to effect a partition of the properties. x x x’ (citations omitted)[52]

It is only properties owned in common that may be the object of an action for partition; it will not lie if the claimant has no rightful interest over the subject property. Thus, in this case, only the shares in the lots which are determined to have been co-owned by Panfilo, Faustino and Danilo could be included in the order of partition and, conversely, shares in the lots which were validly disposed of in favor of respondents must be excluded therefrom. In this connection, the Court sees no reason to depart from the findings of fact and the partition ordered by the appellate court as these are amply supported by evidence on record. Furthermore, the rule is that factual issues are beyond our jurisdiction to resolve since in a petition for review under Rule 45 of the 1997 Rules of Civil Procedure this Court’s power is limited only to review questions of law – when there is doubt or difference as to what the law is on a certain state of facts.[53]

WHEREFORE, the petition is DENIED and the August 31, 2001 Decision and November 20, 2002 Resolution of the Court of Appeals in CA-G.R. CV No. 39138 are AFFIRMED.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Leonardo-De Castro, JJ., concur.

[1] The original petitioner in this case was Panfilo F. Abalos. After his death on April 23, 2003, he was substituted, with prior leave of court, by his children, namely: Florentina Abalos-Castro, Rustica Abalos-Ricardo,

Magdalina Abalos-Garcia, Wilfredo Abalos and Vila Abalos-Buada (rollo, pp. 178-183).

[2] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices B.A. Adefuin-De la Cruz and Mercedes Gozo-Dadole, concurring.

[3] Rollo, p. 58.

[4] Penned by Judge Eugenio G. Ramos.

[5] Evidence Folder for the Petitioners, pp. 1-5.

[6] Rollo, pp. 59-65.

[7] Evidence Folder for the Petitioners, pp. 1-3.

[8] Id. at 10.

[9] Id. at 6-11.

[10] Id. at 10-11.

[11] Rollo, p. 113.

[12] Id. at 114-121.

[13] Records, p. 54.

[14] Id. at 249.

[15] Id. at 31-32.

[16] Id. at 1-12.

[17] Id. at 2-6.

[18] Id. at 46.

[19] Id. at 46.

[20] Id. at 51-53.

[21] Id. at 57-63.

[22] Id. at 66-67.

[23] Id. at 142-146.3

[23] Id. at 162, 323-331.

[24] Id. at 321.

[25] Id. at 333-336, 383.

[26] Id. at 452-465, 501-503, 537.

[27] Id. at 651-652.

[28] Id. at 407-410, 439-443.

[29] Id. at 555-559.

[30] Id. at 558.

[31] Id. at 750-770, 775-812.

[32] Also spelled as “Doyao” in the records.

[33] Records, pp. 813-819.

[34] Id. at 819.

[35] CA Rollo, pp. 51-52.

[36] Id. at 91-92.

[37] Id. at 183-201.

[38] Id. at 200-201.

[39] Id. at 204-208, 255.

[40] See *Khemani v. Heirs of Anastacio Trinidad*, G.R. No. 147340, December 13, 2007, p. 8, citing *Oropeza Marketing Corp. v. Allied Banking Corp.*, 441 Phil. 551 (2002).

[41] *Heirs of Igmedio Maglaque v. Court of Appeals*, G.R. No. 163360, June 8, 2007, 524 SCRA 234, 240; *Heirs of Rosendo Lasam v. Umengan*, G.R. No. 168156, December 6, 2006, 510 SCRA 496, 510; and *Rivera v. Heirs of Romualdo Villanueva*, G.R. No. 141501, July 21, 2006, 496 SCRA 135, 140.

[42] Art. 499 of the Civil Code provides:

Art. 499. The partition of a thing owned in common shall not prejudice third persons, who shall retain the rights of mortgage, servitude, or any other real rights belonging to them before the division was made. Personal rights pertaining to third persons against the co-ownership shall also remain in force, notwithstanding the partition.

[43] See *Cruzcosa v. Hon. H. Concepcion, et al.*, 101 Phil 146, 150 (1957), as cited in *California Bus Lines, Inc. v. State Investment House, Inc.*, 463 Phil. 689, 711 (2003), and *Mabayo Farms, Inc. v. Court of Appeals*, 435 Phil. 112, 119 (2002).

[44] Records, p. 180.

[45] Id. at 99.

[46] *Khemani v. Heirs of Anastacio Trinidad*, G.R. No. 147340, December 13, 2007, p. 9.

[47] SECTION 1, RULE 69.

[48] *Sepulveda, Sr. v. Pelaez*, G.R. No. 152195, January 31, 2005, 450 SCRA 302, 312.

[49] See *Galicia v. Manlquez Vda. De Mindo*, G.R. No. 155785, April 13, 2007, 521 SCRA 85, 93-95; *Moldes v. Villanueva*, G.R. No. 161955, August 31, 2005, 468 SCRA 697, 708; and *Sepulveda, Sr. v. Pelaez*, G.R. No. 152195, January 31, 2005, 450 SCRA 302, 314.

[50] *Dapar v. Biascan*, G.R. No. 141880, September 27, 2004, 439 SCRA 179, 197.

[51] G.R. No. 152862, July 26, 2004, 435 SCRA 232.

[52] Id. at 239. See also *Heirs of Velasquez v. Court of Appeals*, 382 Phil. 438, 453-454 (2000).

[53] See *Sandejas v. Sps. Ignacio*, G.R. No. 155033, December 19, 2007, p. 9; *Antonio v. Sps. Santos, et al.*, G.R. No. 149238, November 22, 2007, p. 6; and *College Assurance Plan v. Belfranlt Development Inc.*, G.R. No. 155604, November 22, 2007, p. 8.

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