

MAXIMINA A. BULAWAN, PETITIONER, VS. EMERSON B. AQUENDE, RESPONDENT.

G.R. No. 182819. June 22, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the 26 November 2007 Decision[2] and 7 May 2008 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 91763. In its 26 November 2007 Decision, the Court of Appeals granted respondent Emerson B. Aquende's (Aquende) petition for annulment of judgment and declared the 26 November 1996 Decision[4] of the Regional Trial Court, Legazpi City, Branch 6 (trial court) void. In its 7 May 2008 Resolution, the Court of Appeals denied petitioner Maximina A. Bulawan's[5] (Bulawan) motion for reconsideration.

The Facts

On 1 March 1995, Bulawan filed a complaint for annulment of title, reconveyance and damages against Lourdes Yap (Yap) and the Register of Deeds before the trial court docketed as Civil Case No. 9040.[6] Bulawan claimed that she is the owner of Lot No. 1634-B of Psd-153847 covered by Transfer Certificate of Title (TCT) No. 13733 having bought the property from its owners, brothers Santos and Francisco Yaptengco (Yaptengco brothers), who claimed to have inherited the property from Yap Chin Cun.[7] Bulawan alleged that Yap claimed ownership of the same property and caused the issuance of TCT No. 40292 in Yap's name.

In her Answer,[8] Yap clarified that she asserts ownership of Lot No. 1634-A of Psd-187165, which she claimed is the controlling subdivision survey for Lot No. 1634. Yap also mentioned that, in Civil Case No. 5064, the trial court already declared that Psd-153847 was simulated by the Yaptengco brothers and that their claim on Lot No. 1634-B was void.[9] The trial court likewise adjudged Yap Chin Cun as the rightful owner of Lot No. 1634-B. Yap also stated that Lot No. 1634-B was sold by Yap Chin Cun to the Aquende family.

On 26 November 1996, the trial court ruled in favor of Bulawan. The trial court's 26 November 1996 Decision reads:

WHEREFORE, premises considered, decision is hereby rendered in favor of the plaintiff (Bulawan) and against the defendant (Yap) declaring the plaintiff as the lawful owner and possessor of the property in question, particularly designated as Lot 1634-B of Plan Psd-153847. The defendant Lourdes Yap is hereby ordered to respect the plaintiff's ownership and possession of said lot and to desist from disturbing the plaintiff in her ownership and possession of said lot.

Subdivision Plan Psd-187165 for Lot 1634 Albay Cadastre as well as TCT No. 40292 in the name of plaintiff[10] over Lot 1634-A of Plan Psd-187165 are hereby declared null and void and the Register of Deeds of Legazpi City is hereby ordered to cancel as well as any other certificate of title issued pursuant to said Plan

Psd-187165.

Defendant Lourdes Yap is hereby ordered to pay plaintiff P10,000.00 as reasonable attorney's fees, P5,000.00 as litigation and incidental expenses and the costs.

SO ORDERED.[11]

Yap appealed. On 20 July 2001, the Court of Appeals dismissed Yap's appeal.

On 7 February 2002, the trial court's 26 November 2006 Decision became final and executory per entry of judgment dated 20 July 2001. On 19 July 2002, the trial court issued a writ of execution.[12]

In a letter dated 24 July 2002,[13] the Register of Deeds informed Aquende of the trial court's writ of execution and required Aquende to produce TCT No. 40067 so that a memorandum of the lien may be annotated on the title. On 25 July 2002, Aquende wrote a letter to the Register of Deeds questioning the trial court's writ of execution against his property.[14] Aquende alleged that he was unaware of any litigation involving his property having received no summons or notice thereof, nor was he aware of any adverse claim as no notice of lis pendens was inscribed on the title.

On 2 August 2002, Aquende filed a Third Party Claim[15] against the writ of execution because it affected his property and, not being a party in Civil Case No. 9040, he argued that he is not bound by the trial court's 26 November 1996 Decision. In a letter dated 5 August 2002,[16] the Clerk of Court said that a Third Party Claim was not the proper remedy because the sheriff did not levy upon or seize Aquende's property. Moreover, the property was not in the sheriff's possession and it was not about to be sold by virtue of the writ of execution.

Aquende then filed a Notice of Appearance with Third Party Motion[17] and prayed for the partial annulment of the trial court's 26 November 1996 Decision, specifically the portion which ordered the cancellation of Psd-187165 as well as any other certificate of title issued pursuant to Psd-187165. Aquende also filed a Supplemental Motion[18] where he reiterated that he was not a party in Civil Case No. 9040 and that since the action was in personam or quasi in rem, only the parties in the case are bound by the decision.

In its 19 February 2003 Order,[19] the trial court denied Aquende's motions. According to the trial court, it had lost jurisdiction to modify its 26 November 1996 Decision when the Court of Appeals affirmed said decision.

Thereafter, Aquende filed a petition for annulment of judgment before the Court of Appeals on the grounds of extrinsic fraud and lack of jurisdiction.[20] Aquende alleged that he was deprived of his property without due process of law. Aquende argued that there was extrinsic fraud when Bulawan conveniently failed to implead him despite her knowledge of the existing title in his name and, thus, prevented him from participating in the proceedings and protecting his title. Aquende also alleged that Bulawan was in collusion with Judge Vladimir B. Brusola who, despite knowledge of the earlier decision in Civil Case No. 5064 on the ownership of Lot No. 1634-B and Aquende's interest over the property, ruled in favor of Bulawan. Aquende added that he is an indispensable party and the trial court did not acquire jurisdiction over his person because he was not impleaded as a party in the case. Aquende also pointed out that the trial court went beyond the jurisdiction conferred by the allegations on the complaint because Bulawan did not pray for the cancellation of Psd-187165 and TCT No. 40067. Aquende likewise argued that a certificate of title should not be subject to collateral attack and it cannot be altered, modified or canceled except in direct proceedings in accordance with law.

The Court of Appeals ruled in favor of Aquende. The 26 November 2007 Decision of the Court of Appeals reads:

WHEREFORE, the petition is GRANTED. The Decision dated November 26, 1996 in Civil Case No. 9040 is hereby declared NULL and VOID. Transfer Certificate of Title No. 40067 registered in the name of petitioner

Emerson B. Aquende and (LRC) Psd-187165 are hereby ordered REINSTATED. Entry Nos. 3823 - A, B and C annotated by the Register of Deeds of Legazpi City on TCT No. 40067 are hereby ordered DELETED.

The parties are hereby DIRECTED to respect and abide by the Decision dated October 31, 1990 in Civil Case No. 5064 quieting title over Lot No. 1634-B (LRC) Psd-187165, now registered in the name of Emerson Aquende under TCT No. 40067.

SO ORDERED.[21]

On 8 January 2008, Bulawan filed a motion for reconsideration.[22] In its 7 May 2008 Resolution, the Court of Appeals denied Bulawan's motion.

Hence, this petition.

The Ruling of the Court of Appeals

The Court of Appeals ruled that it may still entertain the petition despite the fact that another division of the Court of Appeals already affirmed the trial court's 26 November 1996 Decision. The other division of the Court of Appeals was not given the opportunity to rule on the issue of Aquende being an indispensable party because that issue was not raised during the proceedings before the trial court and on appeal.

The Court of Appeals declared that Aquende was an indispensable party who was adversely affected by the trial court's 26 November 1996 Decision. The Court of Appeals said that the trial court should have impleaded Aquende under Section 11, Rule 3[23] of the Rules of Court. Since jurisdiction was not properly acquired over Aquende, the Court of Appeals declared the trial court's 26 November 1996 Decision void. According to the Court of Appeals, Aquende had no other recourse but to seek the nullification of the trial court's 26 November 1996 Decision that unduly deprived him of his property.

The Court of Appeals added that the trial court's 26 November 1996 Decision was void because the trial court failed to note that the Extrajudicial Settlement of Estate and Partition, from where the Yaptengco brothers derived their ownership over Lot No. 1634-B of Psd-153847 allegedly as heirs of Yap Chin Cun and now being claimed by Bulawan, had already been declared void in Civil Case No. 5064.[24] The Court of Appeals also said that a reading of Bulawan's complaint showed that the trial court had no jurisdiction to order the nullification of Psd-187165 and TCT No. 40067 because this was not one of the reliefs that Bulawan prayed for.

The Issues

Bulawan raises the following issues:

I.

The Former Third Division of the Court of Appeals decided contrary to existing laws and jurisprudence when it declared the Decision, dated 26 November 1996, in Civil Case No. 9040 null and void considering that a petition for annulment [of judgment] under Rule 47 of the Rules of Court is an equitable remedy which is available only under extraordinary circumstances.

II.

The Former Third Division of the Court of Appeals decided contrary to law when it considered Respondent Emerson B. Aquende as an indispensable party in Civil Case No. 9040.

III.

The Former Third Division of the Court of Appeals sanctioned a departure from the accepted and usual course

of judicial proceedings when it overturned a final and executory decision of another Division thereof.[25]

The Ruling of the Court

The petition has no merit.

Petition for Annulment of Judgment
is the Proper Remedy

Bulawan argues that the Court of Appeals erred in granting Aquende's petition for annulment of judgment in the absence of extrinsic fraud and the existence of jurisdiction on the part of the trial court. Bulawan adds that the Court of Appeals erred because it annulled a decision which had already been considered and affirmed by another division of the Court of Appeals. According to Bulawan, the trial court's 26 November 1996 Decision is already final and had been fully executed.

In a petition for annulment of judgment, the judgment may be annulled on the grounds of extrinsic fraud and lack of jurisdiction.[26] Fraud is extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured.[27] The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[28] On the other hand, lack of jurisdiction refers to either lack of jurisdiction over the person of the defending party or over the subject matter of the claim, and in either case the judgment or final order and resolution are void.[29] Where the questioned judgment is annulled, either on the ground of extrinsic fraud or lack of jurisdiction, the same shall be set aside and considered void.[30]

In his petition for annulment of judgment, Aquende alleged that there was extrinsic fraud because he was prevented from protecting his title when Bulawan and the trial court failed to implead him as a party. Bulawan also maintained that the trial court did not acquire jurisdiction over his person and, therefore, its 26 November 1996 Decision is not binding on him. In its 26 November 2007 Decision, the Court of Appeals found merit in Aquende's petition and declared that the trial court did not acquire jurisdiction over Aquende, who was adversely affected by its 26 November 1996 Decision. We find no error in the findings of the Court of Appeals.

Moreover, annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered.[31] Consequently, an action for annulment of judgment may be availed of even if the judgment to be annulled had already been fully executed or implemented.[32]

Therefore, the Court of Appeals did not err when it took cognizance of Aquende's petition for annulment of judgment and overturned the trial court's 26 November 1996 Decision even if another division of the Court of Appeals had already affirmed it and it had already been executed.

The Court also notes that when the Court of Appeals affirmed the trial court's 26 November 1996 Decision, it had not been given the occasion to rule on the issue of Aquende being an indispensable party and, if in the affirmative, whether the trial court properly acquired jurisdiction over his person. This question had not been raised before the trial court and earlier proceedings before the Court of Appeals.

Aquende is a Proper Party to Sue
for the Annulment of the Judgment

Bulawan argues that Aquende was not an indispensable party in Civil Case No. 9040 because the lot Aquende claims ownership of is different from the subject matter of the case. Bulawan clarifies that she claims ownership of Lot No. 1634-B of Psd-153847, while Aquende claims ownership of Lot No. 1634-B of Psd-187165. Bulawan

argues that even if Aquende will be affected by the trial court's 26 November 1996 Decision, this will not make him an indispensable party.

Contrary to Bulawan's argument, it appears that Aquende's Lot No. 1634-B of Psd-187165 and Bulawan's Lot No. 1634-B of Psd-153847 actually refer to the same Lot No. 1634-B originally owned by Yap Chin Cun. Both Aquende and Bulawan trace their ownership of the property to Yap Chin Cun. Aquende maintains that he purchased the property from Yap Chin Cun, while Bulawan claims to have purchased the property from the Yaptengco brothers, who alleged that they inherited the property from Yap Chin Cun. However, as the Court of Appeals declared, the title of the Yaptengco brothers over Lot No. 1634-B of Psd-153847 had already been cancelled and they were forever enjoined not to disturb the right of ownership and possession of Yap Chin Cun.

Section 7, Rule 3 of the Rules of Court defines indispensable parties as parties in interest without whom no final determination can be had of an action. An indispensable party is one whose interest will be affected by the court's action in the litigation.[33] As such, they must be joined either as plaintiffs or as defendants. In *Arcelona v. Court of Appeals*,^[34] we said:

The general rule with reference to the making of parties in a civil action requires, of course, the joinder of all necessary parties where possible, and the joinder of all indispensable parties under any and all conditions, their presence being a sine qua non for the exercise of judicial power. It is precisely "when an indispensable party is not before the court (that) the action should be dismissed." 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.^[35]

During the proceedings before the trial court, the answers of Yap^[36] and the Register of Deeds^[37] should have prompted the trial court to inquire further whether there were other indispensable parties who were not impleaded. The trial court should have taken the initiative to implead Aquende as defendant or to order Bulawan to do so as mandated under Section 11, Rule 3 of the Rules of Court.^[38] The burden to implead or to order the impleading of indispensable parties is placed on Bulawan and on the trial court, respectively.^[39]

However, even if Aquende were not an indispensable party, he could still file a petition for annulment of judgment. We have consistently held that a person need not be a party to the judgment sought to be annulled.^[40] What is essential is that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and that he would be adversely affected thereby.^[41]

We agree with the Court of Appeals that Bulawan obtained a favorable judgment from the trial court by the use of fraud. Bulawan prevented Aquende from presenting his case before the trial court and from protecting his title over his property. We also agree with the Court of Appeals that the 26 November 1996 Decision adversely affected Aquende as he was deprived of his property without due process.

Moreover, a person who was not impleaded in the complaint cannot be bound by the decision rendered therein, for no man shall be affected by a proceeding in which he is a stranger.^[42] In *National Housing Authority v. Evangelista*,^[43] we said:

In this case, it is undisputed that respondent was never made a party to Civil Case No. Q-91-10071. It is basic that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court. Yet, the assailed paragraph 3 of the trial court's decision decreed that "(A)ny transfers, assignment, sale or mortgage of whatever nature of the parcel of land subject of this case made by defendant Luisito Sarte or his/her agents or assigns before or during the pendency of the instant case are hereby declared null and void, together with any transfer certificates of title issued in connection with the aforesaid transactions by the Register of Deeds of Quezon City who is likewise ordered to cancel or cause the cancellation of such TCTs." Respondent is adversely affected by such judgment, as he was the subsequent

purchaser of the subject property from Sarte, and title was already transferred to him. It will be the height of inequity to allow respondent's title to be nullified without being given the opportunity to present any evidence in support of his ostensible ownership of the property. Much more, it is tantamount to a violation of the constitutional guarantee that no person shall be deprived of property without due process of law. Clearly, the trial court's judgment is void insofar as paragraph 3 of its dispositive portion is concerned.[44] (Emphasis supplied)

Likewise, Aquende was never made a party in Civil Case No. 9040. Yet, the trial court ordered the cancellation of Psd-187165 and any other certificate of title issued pursuant to Psd-187165, including Aquende's TCT No. 40067. Aquende was adversely affected by such judgment as his title was cancelled without giving him the opportunity to present his evidence to prove his ownership of the property.

WHEREFORE, we DENY the petition. We AFFIRM the 26 November 2007 Decision and 7 May 2008 Resolution of the Court of Appeals in CA-G.R. SP No. 91763.

SO ORDERED.

Leonardo-De Castro,[*] Peralta, Abad, and Mendoza, JJ., concur.

[*] Designated additional member per Special Order No. 1006 dated 10 June 2011.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 57-81. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Conrado M. Vasquez, Jr. and Mariano C. Del Castillo (now a member of this Court) concurring.

[3] Id. at 83-85.

[4] CA rollo, pp. 65-76. Penned by Judge Vladimir B. Brusola.

[5] Substituted by her legal heirs, namely: Helena A. Bulawan, Araceli B. Vargas, Henry A. Bulawan, Mario A. Bulawan and Cesar A. Bulawan. Bulawan died on 23 April 2009.

[6] CA rollo, pp. 165-168.

[7] Alias Antonio Luna.

[8] CA rollo, pp. 184-185.

[9] Id. at 158-160. The dispositive portion of the trial court's 31 October 1990 Decision reads:

WHEREFORE, as prayed for, the plaintiff (Yap Chin Cun) is hereby declared the owner of Lot No. 1634-B of the cadastral survey of Legazpi described in the technical description marked as Exhibit N and his title thereto is quieted and the defendants (Yaptengco brothers) are hereby forever enjoined not to disturb the right of ownership and possession of the plaintiff. That the document denominated as Extrajudicial Settlement of Estate and Partition executed by and among the Yaptengcos is hereby declared null and void, as Yap Chin Cun is presently much alive, hence, there is no reason for its execution. That TCT No. 13733 issued to Santos Yaptengco and Francisco Yaptengco for Lot No. 1634-B is ordered cancelled. That all the defendants be ordered to pay to plaintiff P5,000 for attorney's fees and P1,000 for miscellaneous expenses. The Register of Deeds is hereby directed to register and implement this decision. Let a copy of this decision be furnished the Register of Deeds of Legazpi.

[10] Rollo, p. 247. In its 13 December 1996 Order, the trial court corrected the typographical error. It should have

been "defendant Lourdes Yap" instead of plaintiff.

[11] Id. at 57-58.

[12] Id. at 262-263.

[13] CA rollo, p. 78.

[14] Id. at 188-189.

[15] Id. at 190-191.

[16] Id. at 192-193.

[17] Id. at 194-222.

[18] Id. at 249-259.

[19] Id. at 260.

[20] Id. at 2-64.

[21] Rollo, pp. 80-81.

[22] CA rollo, pp. 427-438.

[23] Sec. 11. Misjoinder and non-joinder of parties. - Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded separately.

[24] The Yaptengco brothers appealed the trial court's 31 October 1990 Decision to the Court of Appeals. However, in its 6 December 1991 Resolution, the Court of Appeals considered the appeal abandoned and dismissed the same. There was entry of judgment on 1 January 1992. The trial court issued a writ of execution on 6 July 1992.

[25] Rollo, p. 16.

[26] Rules of Court, Rule 47, Sec. 2.

[27] *Alaban v. Court of Appeals*, 507 Phil. 682 (2005).

[28] *Carillo v. Court of Appeals*, G.R. No. 121165, 26 September 2006, 503 SCRA 66; *Alaban v. Court of Appeals*, *supra*.

[29] *National Housing Authority v. Evangelista*, 497 Phil. 762 (2005); *Capacete v. Baroro*, 453 Phil. 392 (2003).

[30] Rules of Court, Rule 47, Sec. 7.

[31] *Islamic Da'wah Council of the Philippines v. Court of Appeals*, 258 Phil. 802 (1989), *Alaban v. Court of Appeals*, *supra* note 27; *Carillo v. Court of Appeals*, *supra* note 28.

[32] *Islamic Da'Wah Council of the Philippines*, *supra*.

[33] *Servicewide Specialists, Incorporated v. Court of Appeals*, G.R. No. 103301, 8 December 1995, 251 SCRA 70.

[34] 345 Phil. 250 (1997).

[35] Id. at 267-268.

[36] Rollo, pp. 198-199.

[37] Id. at 201-202.

[38] Sec. 11. Misjoinder and non-joinder of parties. - Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded separately.

[39] Arcelona v. Court of Appeals, *supra*.

[40] Islamic Da'Wah Council of the Philippines, *supra* note 31; Alaban v. Court of Appeals, *supra* note 27.

[41] Id.

[42] National Housing Authority v. Evangelista, *supra* note 29; Heirs of Pael v. Court of Appeals, 382 Phil. 222 (2000); Arcelona v. Court of Appeals, *supra* note 34.

[43] *Supra* note 29.

[44] Id. at 770-771.

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