

GREGORIO FERINION, PLAINTIFF AND APPELLANT, VS. DIOSDADO STA. ROMANA, RESURRECCION RAMOS, BASILIA FERINION AND DEVELOPMENT BANK OF THE PHILIPPINES, DEFENDANTS AND APPELLEES.

G.R. No. 25521. February 28, 1966

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Four cases involving substantially the same causes of action, the same subject matter and the same parties were, at divers times, before the Court of First Instance of Nueva Ecija, viz:

1. The first case—

Civil Case No. 1792

For: 'ANNULMENT OF DEEDS'

Sinforosa Ferinion, Felicidad Ferinion and Gregorio Ferinion plaintiffs, vs. Diosdado Sta. Romana, Resurreccion Ramos and Basilia Ferinion, defendant.

The complaint therein filed on March 17, 1955 prayed for the annulment of (1) the power of attorney executed by plaintiffs Sinforosa Ferinion, Felicidad Ferinion and Gregorio Ferinion in favor of their co-owner, defendant Basilia Ferinion, covering the lands described in Transfer Certificate of Title No. 20912 of the land records of Nueva Ecija; and (2) the two real estate mortgages executed by Basilia Ferinion—pursuant to the foregoing power of attorney— in favor of defendant spouses Diosdado Sta. Romana and Resurreccion Ramos. Defendants duly answered the complaint. On February 24, 1956, the court, thru Judge L. Pasicolan, dismissed this case without prejudice because of non-attendance of plaintiffs and their lawyer at the trial.

2. The second case—

Civil Case No. 2206

For: 'ANNULMENT OF DEEDS'

Gregorio Ferinion and Sinforosa Ferinion, plaintiffs, vs. Diosdado Sta. Roman a, Resurreccion Ramos, Basilia Ferinion and Felicidad Ferinion, defendants.

In this second suit, the name of Felicidad Ferinion, one of the plaintiffs in Case 1792, was deleted "in view of her

refusal to give her consent to be joined as plaintiff." The complaint in this case was filed on July 9, 1956, after the lapse of 4 and 1/2 months from February 21, 1956, the date of the order of dismissal of the first complaint.

As in the first case, the averments of the complaint were traversed in defendants' answer.

On August 30, 1956, plaintiffs' counsel moved to dismiss the complaint upon the ground that plaintiffs were "not being interested in the further prosecution of their claim against the defendants." On September 3, 1956, the date set for the hearing of this motion, counsel for all parties appeared in court. Defendants' attorneys offered no objection to plaintiffs' motion provided that the 'dismissal be made of record as an adjudication on the merits', i. e., "with prejudice". Judge Felix V. Makasiar forthwith dismissed plaintiffs' complaint "with prejudice".

3. The third case is entitled—

Civil Case No. 2502

For: 'ANNULMENT OF DEEDS, TITLE, RECONVEYANCE AND FOR DAMAGES'

Sinforosa Ferinon, Felicidad Ferinon [*] and Gregorio Ferinon, plaintiffs, vs. Diosdado Sta. Romana, Resurreccion Ramos and Basilia Ferinon, defendants.

The complaint in this third case was filed on April 15, 1957, that is, 7 months and 12 days from the dismissal of the second case on September 3, 1956.

Plaintiffs' action here seeks the annulment of the very same documents set forth in the first two complaints adverted to. The mortgages having been foreclosed and Torrens title issued in favor of defendant spouses, the Sta. Romanas, the complaint further prays for reconveyance of their 3/4 share of the property, with damages.

This complaint was met by defendants with a motion to dismiss dated May 20, 1957, upon the ground of res judicata. Instead of seriously taking issue with defendants, plaintiffs on May 2, 1958 filed a notice of (1) withdrawal of their opposition of June 7, 1957 to the motion to dismiss and (2) of dismissal, wherein they joined defendants in their prayer that "said motion (to dismiss) be granted and that this case be dismissed without costs and with prejudice". On the same day—May 2, 1958—in line with plaintiffs' said notice of dismissal, Judge Jose N. Leuterio issued an order which reads: "As prayed for by the plaintiffs, the above case is dismissed without pronouncement as to costs".

4. After the lapse of 6 years, 9 months and 23 days from the order of dismissal (dated May 2, 1958) of the third complaint, the instant fourth complaint was filed on February 25, 1965. This time it was entitled—

Civil Case No. SD-116

For: 'ANNULMENT OF DEEDS'

Gregorio Ferinon, plaintiff vs. Diosdado Sta. Romana, Resurreccion Ramos, Basilia Ferinon and Development Bank of the Philippines,[*] defendants.

The lone plaintiff sought judgment for the annulment of the deeds aforesaid and defendant spouses' title covering the properties in question, solely in so far as his rights are affected, with damages and attorneys' fees.

Once again defendants moved to dismiss, inter alia, upon the ground of res judicata, On September 14, 1965, after

due hearing on the motion, Judge Florencio Villamor dismissed this fourth complaint "with prejudice".

Plaintiff's motion to reconsider the foregoing order having been thwarted below, he elevated the case to this Court on appeal.

Before us now is a motion to dismiss the appeal, upon the grounds that (1) it is manifestly frivolous and (2) it was not perfected on time.

This case is unique in itself. Three previous complaints were dismissed in the trial court by three different judges of first instance. The first was without prejudice, the second was with prejudice and the third also [1] with prejudice. The orders of dismissal of all these cases have become final. Needless to repeat, they all refer substantially to the same subject matter, the same causes of action and the same parties. Citation of authorities is unnecessary to show that *res judicata* had set in.

Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply in number to the detriment of the administration of justice. This is a situation which should not be permitted to obtain here or elsewhere where there is an orderly form of government. Public policy demands that judicial proceedings be upheld. The maxim *non quita movere* cannot be meaningless. *Banco Español-Filipino vs. Palanca*, 37 Phil. 921, 942. :

If the sole plaintiff here was not satisfied with the dismissal of the second case (Civil Case No. 2206),[2] he should have pursued the remedies accorded him by law. He cannot be permitted to revive that lawfully terminated suit and question the final judgment therein by filing an independent action. And yet, appellant even went beyond this. He filed a third complaint. This, too, was dismissed. Then he filed a fourth. He must be stopped on his tracks. The following from *Dy Cay vs. Crossfield and O'Brien*, 38 Phil. 5, 21, 526 commands assent:

** * Public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law. The very object for which courts were instituted was to put an end to controversies. To fulfill this purpose and to do so speedily, certain time limits more or less arbitrary, have to be set up to spur on the slothful. 'If a vacillating, irresolute judge were allowed to thus keep *causing* ever within his power, to determine and redetermine them term after term. to bandy his judgments about from one party to the other, and to change his conclusions as freely and as capriciously as a chameleon may change its hues, then litigation might become more intolerable than the wrongs it is intended to redress.' (See *Arnedo vs. Llorente and Liongson* [1911], 18 Phil. 257.)"

The appeal is manifestly frivolous; it should be dismissed. Cruz, et al., vs. Blanco, et al., 73 Phil. 596, 597.

We need not pass on the other ground of the motion to dismiss the appeal.

Upon the view we take of this case, the appeal is dismissed. Costs against plaintiff-appellant. So ordered.

Bengzon, C. J., Bautista, Angelo, Concepcion, Reyes, J. B. L., Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

Bengzon, J. P., J.:

I concur with treble costs against plaintiff and appellant.

Appeal dismissed.

[*] Felicidad Ferinion is back as plaintiff.

[*] Development Bank is a creditor of defendant spouses.

[1] Section 1, Rule 17, Rules of Court.

[2] The first case (No. 1792) was dismissed without prejudice.

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