

**JUANITO LIM, PLAINTIFF AND APPELLANT, VS. CONSUELO YBALLE,
ADMINISTRATRIX OF THE ESTATE OF JUAN LIM LLIN UAN,
DECEASED, DEFENDANT AND APPELLEE.**

G.R. No. 43501. May 20, 1938

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal from the judgment of the second branch of the Court of First Instance of Cebu dismissing the plaintiff's complaint in civil case No. 10227.

Two decisions of the Court of First Instance of Cebu are here involved. One was rendered in the case above-mentioned and the other in civil case No. 9879. This latter case arose out of a decision of the committee on claims and appraisals recognizing the right of the plaintiff to recover from the estate of the late Juan Lim Llin Uan, husband of the defendant administratrix, the sum of P1,960 representing rentals due for the occupation of land allegedly sold to said plaintiff by Lao Pen-Niu, mother of the deceased. The Court of First Instance of Cebu, Hon. Jose M. Hontiveros presiding, absolved the defendant from the plaintiff's complaint. The plaintiff did not appeal. Instead, he brought a separate action, civil case No. 10227, his reason being that in case No. 1879 the court, to use its own language, did not possess "jurisdiccion para resolver lo que pide en la parte petitoria de la demanda, de que se ordenara la particion del terreno en ella descrito entre el demandante y la demandada y se nombrara un depositario del mismo, inter in no se resuelva definitivamente esta causa", and these were precisely the things the plaintiff wanted done.

It appears from the complaint in this second case now before us, filed on March 20, 1934, that the spouses Joaquin Singson Lim Othong and Lao Pen-Niu acquired during marriage a parcel of land situated in the municipality of Balamban, Province of Cebu, described in paragraph 3 of said complaint and containing an area of 220,371 square meters. After the death of Joaquin Singson Lim Othong and during the absence from the Philippines of Lao Pen-Niu, their son Juan Uan Llin Uan secured the issuance in his own name of original certificate of title No. 15503 covering the parcel of land. In 1928, the widow Lao Pen-Niu, being in the Philippines at that time, sold to the plaintiff herein one-half of the lot (Exhibit A) and the said plaintiff in turn leased the same to Juan Lim Uan at a monthly rental of P40, executing a contract for the purpose (Exhibit B). From the time the contract of lease was entered into on August 9, 1928 until his death which occurred on March 25, 1933, Juan Lim Llin Uan never paid the rentals due to the plaintiff. Neither has the defendant administratrix done this after the death of her husband, although she has continued in possession thereof to the exclusion of the plaintiff and to his prejudice. The prayer of the complaint is as follows:

"Tor tanto, al Juzgado pide que se dicte sentencia a su favor, declarando copropietario pro indiviso del terreno descrito en esta demanda; que se cancele el titulo original, expedido a nombre de Juan Lim Llin Uan, expidiendo en su lugar los correspondientes titulos a favor del demandante y de la demandada, por las porciones que nan de corresponderles en la subdivision de la propiedad descrita en dos partes iguales, perteneciendo la mitad al demandante y la otra mitad a la demandada en su capacidad de Administradora de

Ios bienes del finado Juan Lim Llin Uan; que sea condenada la demandada a pagar los alquileres de P40 mensuales al demandante, desde el 9 de agosto de 1928 hasta la entrega del terreno arrendado; que, mientras este pendiente de decision la presente causa, se nombre un depositario del terreno pro indiviso; que sea condenada a pagar las costas del presente juicio; y por ultimo, que se conceda al demandante cualquier remedio que en derecho haya lugar."

Upon the overruling of his demurrer, the defendant, on May 4, 1934, filed an answer to the plaintiffs complaint setting up a general denial and the special defense of res adjudicata.

After the trial of the case and pending the decision of the court below, the plaintiff, on August 29, 1933, moved for a reopening of the case for the purpose of presenting three documents which he inadvertently omitted to present in the trial. By Exhibit A he intended to prove that Lao Pen-Niu sold to the plaintiff herein one-half of the parcel of land here in question. By Exhibit B he intended to prove that he leased the same parcel of land to Joaquin Lim Llin Uan for an indefinite period of time, i. e., until the death of the latter, in consideration of a monthly rental of P40. Both Exhibits A and B were public instruments and both were executed on August 9, 1928. The other document, Exhibit C, was an acknowledgment by Juan Lim Llin Uan of the dominical right of his mother, the vendor in Exhibit A, over one-half of the property aforementioned. The motion, however, was denied and, on December 29, 1934, the court below, Hon. Guillermo F. Pablo presiding, rendered judgment dismissing the complaint with costs against the plaintiff. Reliance was had by that court on the decision in civil case No. 9879. After stating the prayer of the plaintiff's complaint and the fact of presentation of evidence by both parties, the said court reproduced the decision and judgment in civil case No. 9879 and observed:

"Esta decision ha quedado firme y ejecutoria. Como se observara, en esta decision el Hon. Juez Hontiveros dijo que carecia de jurisdiccion en cuanto a la particion del terreno, pero resolvio que el demandante no tenia derecho a cobrar los alquileres fundados en los exhibits A, B y C. Despues de discutir las circunstancias bajo las cuales estos exhibits han sido otorgados, el Juzgado declaro que 'los documentos Exhibits A, B y C presentados por la parte demandante otorgo en 16 de agosto de 1928 un documento privado de venta sobre el mismo terreno objeto de dichos Exhibits A, B y C a favor del hoy finado Lim Llin Uan.' Si estos Exhibits A, B y C carecian de valor para una accion para reclamar alquileres por el supuesto dueno, con mayor razon deben tener menos valor en esta causa en que se reclama la propiedad de la mitad supuestamente arrendada. Si los Exhibits A, B y C fueron declarados en sentencia firme documentos simulados y de ningun valor cuando se trataba de la reclamacion del pago de alquileres del terreno, ¿por medio de que ley puede este Juzgado declararlos en esta causa documentos valores y eficaces y no simulados? Eso era una herejia judicial. Puesto que la decision del Hon. Juez Hontiveros en la causa No. 9879 no fue apelada y, por ministerio de la ley, quedo firme y ejecutoria, los Exhibits A, B y C necesariamente tienen que ser documentos de ningun, valor para el demandante."

The plaintiff presented, on February 4, 1935, a motion for new trial which was denied on February 11 of the same year. He then excepted and, upon motion, was allowed to appeal to this court as a pauper under section 143½ of the Code of Civil Procedure. He now makes the following assignment of errors:

- "1. El Juzgado cometio error al declarar nulos y sin valor los Exhibitos A, B y C.
- "2. El Juzgado cometio error al declarar concluyentes las conclusiones del Juzgado en su sentencia en la causa No. 9879.
- "3. El Juzgado cometid error al prescindirse de las pruebas presentadas en esta causa, fundandose en que la decision del Hon. Juez Hontiveros ya es firme y ejecutoria.
- "4. El Juzgado cometio error al no acceder a lo pedido por el demandante en su demanda."

Because of the character of the issues raised, we shall primarily discuss the second assignment of error. The

question presented is whether or not the judgment in civil case No. 9879 which has already become final operates to prevent the plaintiff from bringing civil case No. 10227 now before us. Does the doctrine of res adjudicata apply?

Unquestionably, the rule applies only where there is a perfect identity of things, causes and persons in the two suits involved. Decisions of this court to this effect are numerous. Principal among these are those in *De Ocampo vs. Jenkins and Worcester* (14 Phil., 681); *Bowler vs. Estate of Alvarez* (23 Phil., 561); *Donato vs. Mendoza* (25 Phil., 57); *Solano vs. Salvilla* (29 Phil., 66); *Isaac vs. Padilla* (31 Phil., 469); *Roman Catholic Archbishop of Manila vs. Director of Lands* (35 Phil., 339); *Aquino vs. Director of Lands* (39 Phil., 850); and *Chua Tan vs. Del Rosario* (57 Phil., 411).

In applying, however, the doctrine of res adjudicata, we must also inquire whether the final judgment in the former case was rendered (a) by a court of competent jurisdiction (b) upon the merits. This proposition admits of no controversy. (See *Peñalosa vs. Tuason*, 22 Phil., 303; *Bayot vs. Zurbito*, 39 Phil., 650; *Ferrer vs. Diaz and Diaz*, 15 Phil., 219; 15 R. C. L., sec. 431, p. 955; 34 C. J., secs. 1193 et seq., pp. 774 et seq.) In the case before us, it appears that the court below in civil case No. 9879 admitted lack of jurisdiction over the subject-matter of the suit in the following words:

"Antes de discutir las pruebas practicadas por una y otra parte, conviene hacer constar que en este estado del juicio el Juzgado carece de jurisdiccion para resolver lo que se pide en la parte petitoria de la demanda de que ordenara la particion del terreno en ella descrito entre el demandante y la demandada y se nombrara un depositario del mismo, interin no se resuelva definitivamente esta causa, porque en este asunto se trata de una demanda sobre cantidad de pesos que se ha presentado en virtud de la apelacion de la administradora contra la resolucion del Comite de Reclamaciones, y no sobre partition de bienes. Por tanto, este Juzgado resuelve que esta cuestion suscitada por la parte demandante deja mucho que desear en esta causa, sin perjuicio de su derecho de plantearla en otro expediente." (Underscoring ours.)

Two significant portions of the foregoing quotation are here underscored. In the first of these, the trial court admitted lack of jurisdiction, among other things, to order the partition of the property involved. There is no reason why the plaintiff should be held barred from bringing civil case No. 10227 for the purpose of effecting that partition. The matter could not have been validly decided in the former case. In the second underlined portion, the same court reserved to the plaintiff the right to bring another action, There is no estoppel by judgment in so far as matters not included within the reservation are concerned, for these are necessarily set apart from the operation of the judgment.

"A judgment or decree which expressly excepts or reserves from its operation specified rights or claims of the parties in suit, or the decision of questions in issue, or the right to take further proceedings in respect to certain matters, is not a bar to a subsequent action on the matters so reserved; but on the contrary the reservation itself becomes res judicata, and prevents the raising of any question as to the right to bring or maintain such subsequent suit." (34 C. J., p. 797.)

The second assignment of error is, therefore, sustained.

In determining whether or not the plaintiff-appellant is entitled to secure such partition, a prior determination of ownership is necessary. As the trial court in case No. 9879 admitted lack of jurisdiction to order the partition, it can not be said to have passed upon the question of ownership. The fact that said court ruled that the plaintiff is not entitled to the rents claimed by him is no warrant for the conclusion that it also determined thereby who the owner was for this was by its own admission, something it could not have done.

Appellant's claim of ownership is founded in Exhibits A, B and C hereinabove referred to. The court below

declined to attach any value to these documents because of its previous decision in civil case No. 9879 declaring them to be simulated and such declaration was not appealed from. It was the theory that these exhibits, which are public documents, were executed by Juan Lim Llin Uan to enable him to support his mother with P40, stipulated as rental as shown by the fact that the plaintiff executed a counter document by which said plaintiff transferred on August 16, 1928 to the same Juan Lim Llin Uan the very portion pretended to have been conveyed to the latter by the document of sale, Exhibit A. This theory, however, cannot be accepted, first, because the character and value of a public document whose execution is surrounded with the required legal formalities cannot be impaired in this manner; and secondly, because the alleged private document was not even produced and only secondary evidence of its contents was presented by the defendant.

The first, third, and fourth assignments of errors are also sustained.

The judgment of the lower court is accordingly reversed and the plaintiff is hereby declared a co-owner of one-half of the parcel of land described in the original certificate of title No. 13503, decree No. 21757, expediente No. 193, Record No. 27458, Court of First Instance of Cebu; after partition, plaintiff shall be issued the corresponding certificate of title; and plaintiff will collect from the defendant administratrix the monthly rental of P40, from August 9, 1928, until the delivery of the portion corresponding to him. Without any pronouncement regarding costs. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

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