

LUCIA BERNABE, ET AL., PLAINTIFFS AND APPELLEES, VS. DOMINGO L. VERGARA, DEFENDANT AND APPELLANT.*G.R. No. 48652. September 16, 1942*

Ponente: MORAN, J.

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This case has been certified to this Court by a resolution of the Court of Appeals which reads as follows:

"En la demands entablada en este asunto se pide la anulacion de la subasta publica que realizo el sheriff de Nueva Ecija para dar cumplimiento a una parte de la sentencia dictada por el Juzgado de Primera Instancia de aquella provincia en el asunto civil No. 5714, parte relativa al pago de la cantidad de P350 con sus intereses legales desde el 22 de febrero de 1917, montando todo ello a la suma de P747 por la que se remataron los bienes embargados y vendidos. Despues de enjuiciar el presente pleito, el Juzgado dicto sentencia anulando la subasta, conlorme a lo pedido en la demanda, por causa de varias irregularidades cometidas por el sheriff en la tramitacion de las diligencias concernientes a dicha subasta. Contra el fallo asi dictado, la parte demandada, es decir, la parte a quien beneficio la subasta, ha interpuesto la presente apelacion.

"Al revistar los autos de este asunto hemos notado que los demandantes y apelados, al arferior a favor de la sentencia del Tribunal inferior, no solamente invocan las irregularidades de la subasta, sino que suscitan una cuestion de jurisdiccion o competencia, la del Juzgado que dicto la sentencia en el pleito anterior, o sea, el referido asunto civil No. 5714. Segun los apelados, en aquel asunto la unica cuestion planteada era la particion de ciertos bienes inmuebles; la parte demandada entonces, que lo es tambien en este asunto, no reclamaba ninguna cantidad de dinero en su escrito de alegaciones. Sin embargo, el Juzgado, al dictar su sentencia, condeno a los demandantes a pagar a los demandados la cantidad de P360, mas los intereses legales. Al hacer esto—sostienen los apelados—el Juzgado obro sin jurisdiccion ni competencia (alegato de los apelados, pags. 22 y siguientes). Y esta cuestion de jurisdiccion—añaden—puede suscitarse en cualquier estado del juicio, sea en este o en el primer asunto.

"Por lo expuesto y en obediencia a la ley que rige nuestras actuaciones, ordenamos que este expediente se eleve al Tribunal Supremo por ser de su incumbencia el enjuiciarlo y resolverlo."

Civil case No. 5714, as we have examined it, was an action for partition of an inheritance left by the deceased Victoriano Zafra. He was survived by three children: Benito Apolonia and Dominga, all surnamed Zafra. Benito and Apolonia died, the first leaving a daughter named Irinea, and the second, three children named Lucia, Hipolito, and Barbara. The plaintiffs in the action for partition were the heirs of Benito and Apolonia Zafra and the defendants were Dominga Zafra and the persons to whom she had sold her share in the common property; namely, Brigida Martinez, Araadeo Landicho and Marcelina Landicho. Dominga Zafra, in her answer, pleaded a counterclaim, alleging that she had paid certain debts contracted by Apolonia Zafra, the deceased mother of plaintiffs Lucia, Hipolito, and Barbara. These debts constituted an equitable lien upon the property left by said deceased Apolonia Zafra. (*Suiliong & Co. vs. Chio-Taysan*, 12 Phil., 13 ; *Lopez vs. Enriquez*, 16 Phil., 336; *Montinola vs. Villanueva*, 49 Phil., 528.) At the trial, evidence was presented as to such debts, and the trial court in its decision awarded the plaintiffs Lucia, Hipolito, and Barbara one-third of the common property and, at the

same time, ordered them to pay the debts of their deceased mother, Apolonia Zafra, in the amount of P350. Appeal was interposed by them from this judgment, and in this Court no question was raised as to the jurisdiction of the trial court to render a judgment in the said amount of P350. This Court accordingly assumed jurisdiction over the case and affirmed the judgment. The question now raised by the plaintiffs-appellees as to whether or not the trial court had jurisdiction to render its judgment for the sum of money above mentioned is unsubstantial. There can be absolutely no doubt that the trial court had such jurisdiction not only because there was a counterclaim wherein the amount adjudged was within the amount pleaded, but because the proceeding was in the nature of one for liquidation and partition of inheritance wherein debts left by the deceased ancestors may be determined and ordered paid if the creditors are parties, as was the case. Plaintiffs-appellees knew that the trial court had such jurisdiction as is shown by their omission to raise any question with respect thereof in their appeal to this Court. And such question may be deemed to have been passed upon impliedly by this Court when it acted on the case and decided the same on the merits.

And, furthermore, the question of jurisdiction attempted to be raised in this case is not the kind of question that confers jurisdiction upon this Court. The jurisdiction involved is not one over the subject-matter but at most over the issue or over the persons of the parties. A Court of First Instance has jurisdiction over a case involving P200 or more, and therefore the Court of First Instance of Nueva Ecija had jurisdiction to render judgment in the amount of P350. The question of whether or not there was a proper issue raised in the pleading as to said amount, is not a question of jurisdiction over the subject-matter, but jurisdiction over the issue. In this regard we reiterate what we have said in *Reyes vs. Diaz*, G.R. No. 48754, November 26, 1941:

"There is in our Constitution or in the law aforesaid nothing which may lend the word 'jurisdiction' therein used a broader meaning than jurisdiction over the subject-matter. On the contrary, having due regard to the manifest purpose of the law, which is to confine the appellate jurisdiction of this Court to cases of vital importance involving questions of fundamental character, such, for instance, as the question of validity of statute, treaty or ordinance, or the legality of any tax, import or assessment which may affect the very existence of the government, or criminal cases wherein life imprisonment or death penalty is imposed, we are of the opinion and so hold, that the issue of jurisdiction which confers appellate powers upon this Court in a given case is not such question as is dependent exclusively upon minor matters of fact or upon a mere construction of the pleadings, but that which has reference to the more important question of jurisdiction of the trial court over the subject-matter as determined by law.

"Jurisdiction over the subject-matter is the power to hear and determine cases of the general class to which the proceedings in question belong (C.J.S. p.36) and is conferred by the sovereign authority which organizes the court and defines its powers (*Banco Español Filipino vs. Palanca*, 37 Phil., 921; *Perkins vs. Dizon*, 40 Off. Gaz., No. 7 3d Sup., p., 216; *Ng Si Chok vs. Vera*, G.R. No. 45674). The question, therefore, of whether a court has jurisdiction over the subject-matter, calls for interpretation and application of the law of jurisdiction which distributes the judicial power among the different courts in the Philippines and since the ruling on the matter is of far-reaching consequences, affecting, as it may, the very life and structure of our judicial system, the law has deemed it wise to place the power and authority to act thereon in the highest court of the land."

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* * * Whether certain ballots are or are not pertinent to the issue raised in the pleadings, is merely a question of relevancy of evidence. It may be true that the court by an erroneous ruling on such question may encroach upon issues completely foreign to those defined in the pleadings, but in such case the question of jurisdiction that may arise would not be one of jurisdiction over the issues. In order that a court may validly try and decide a case, it must have jurisdiction over the subject-matter and jurisdiction over the persons of the parties. (*Banco Español Filipino vs. Palanca*, 37 Phil., 921; *Perkins vs. Dizon*, 40 Off. Gaz., No. 7, 3d Sup., p., 216.) But in some instance it is said that the court should also have jurisdiction over the issue (15 C. J., 734; *Hutts vs.*

Martin, 134 Ind., 587; 33 N.E., 676), meaning thereby that the issue being tried and decided by the court be within the issues raised in the pleadings. But this kind of jurisdiction should be distinguished from jurisdiction over the subject-matter, the latter being conferred by law and the former by the pleadings. Jurisdiction over the issue, unlike jurisdiction over the subject-matter, may be conferred by consent either express or implied of the parties. (Rule 17, sec. 4, Rules of Court.) Although an issue is not duly pleaded it may validly be tried and decided if no timely objection is made thereto by the parties. This cannot be done when jurisdiction over the subject-matter is involved. In truth, jurisdiction over the issue is an expression of a principle that is involved in jurisdiction over the persons of the parties. Where, for instance, an issue is not duly pleaded in the complaint, the defendant cannot be said to have been served with process as to that issue. (Cf. *Atkins, Kroll & Co. vs. Domingo*, 44 Phil., 680.) At any rate, whether or not the court has jurisdiction over a specific issue is a question that requires nothing except an examination of the pleadings, and this function is without such importance as to call for the intervention of this court."

We hold, therefore, that the question of jurisdiction raised in the instance case is not only unsubstantial but is also not the kind of question that may deprive the Court of Appeals of its appellate jurisdiction over the case. It is hereby ordered that this case be returned to the Court of Appeals for hearing and decision on the merits.

Yulo, C.J., Ozaeta, Bocobo, and Generoso, JJ., concur.

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