

ANTONIO A. ENRIQUEZ, PETITIONER, VS. FELICIDAD ANGCO BOYLES, ASSISTED BY HER HUSBAND VENANCIO GUNAYAN AND LORETO AUMENTADO BOYLES ASSISTED BY HER HUSBAND JOSE CURIBA, RESPONDENTS.

G.R. No. 51025. September 22, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

After his death on January 18, 1955, the estate of the late Eutiquio Boyles was placed under administration, with Filomena Boyles del Valle as administratrix thereof. With the decedent's last will and testament duly probated, Branch III, CFI Bohol appointed Atty. Ulysses B. Tirol as commissioner to partition said estate among the surviving heirs, including private respondents herein.

In the sketch plan submitted by Commissioner Tirol for court approval, it appears that the inheritance of the abovementioned heirs comes in the form of proportionate shares in various real properties, to wit:

"Shares corresponding to Felicidad Angco Boyles

1. Under Lot 1, B. L. II - 12672

Location - Poblacion (Basak) Ubay, Bohol

Lot 1-D

Boundaries:

North - Filomena B. del Valle

Lot 1-A

East - Loreto Aumentado Boyles

Lot 1-E

South - Sergio Angco Boyles

Lot 1-C

West - Sergio Boyles

Lot 1-C

Area - 14,681 square meters

2. Under Lot 2, B. L. II - 12672 and Tax Declaration No. D-8145

Lot 2-E

Location - situated at Sitio Popoc, Barrio Basiao, Pitogo, Ubay, Bohol

Boundaries:

Northeast - Loreto Boyles Lot 2-F

East - Sergio Boyles Lot 2-C

South - Loreto Boyles Lot 2-D and

Sergio Boyles Lot 2-C

West - Swamp

Area - 32,110 square meters

3. Under Lot 4, B. L. II - 12672 and Lot 3, B. L. 12672 and Tax Dec. No. R-9226

Parcel 1-B

Location - Poblacion, Ubay, Bohol

Boundaries:

North - Boyles Road

East - Loreto Boyles Lot 1-C

South - F. B. del Valle

West - Plaridel Street

Area - 368 square meters

4. Under Lot 3-D, Tax Dec. No. R-8868

Location - Poblacion, Ubay, Bohol

Boundaries:

North - Mabini Street

East - Plaridel Street

South - Maria del Valle Lot 3-E

West - Loreto Boyles Lot 3-C

Area - 243 square meters

Shares corresponding to Loreto Aumentado Boyles:

1. Under Lot 1, B. L. II - 12672

Location - Poblacion (Basak), Ubay, Bohol

Lot 1 - E

Boundaries:

North - Nicasia Boyles

East - Filomena B. del Valle

Lot 1-A

South - Felicidad Angco Boyles

Lot 1-D

West - Felicidad Angco Boyles

Lot 1-D

Area -14,681 square meters.

2. Under Lot 2, B. L. II - 12672 and Tax Declaration No. D-8145

Lot 2-F

Location - Sitio Po-poc, Basiao, Pitogo, Bohol

Boundaries:

North - Public Road

East - Filomena B. del Valle

Lot 2-B

South - Felicidad Boyles Lot 2-E and Sergio Angco Boyles

Lot 2-C

West - Swamp

Area - 28,130 square meters

3. Under Lot 2, B. L. II - 12672, and Tax Declaration No. D-8145

Lot 2-D

Location - Sitio Po-poc, Basiao, Pitogo, Bohol

Boundaries:

North - Felicidad Angco Boyles

Lot 2-E

East - Sergio Boyles Lot 2-C

South - Sergio Boyles Lot 2-C

West - Felicidad Angco Lot 2-E

Area - 3,880 square meters

4. Under Lot 4, B. L. II - 12672 and Tax Declaration No. R-9226

Parcel 1-C

Location - Poblacion, Ubay, Bohol

Boundaries:

North - Boyles Road

East - Sergio Boyles Lot 1-D

South - Filomena B. del Valle

Parcel 1-A

West - Felicidad Angco Boyles

Parcel 1-B

Area - 368 square meters

5. Under Lot 3, B. L. II - 12672 and Tax Declaration No. R-8868

Lot 3-C

Location - Poblacion, Ubay, Bohol

Boundaries:

North - Mabini Street

East - Felicidad Angco Lot 3-D

South - Filomena B. del Valle

Lot 3 - A and Maria del Valle Lot 3-E

West - Sergio Boyles Lot 3-B

Area - 243 square meters."

On September 11, 1974, the lower court ordered administratrix del Valle to deliver to said heirs their rights, titles, interests, shares and participations over the aforementioned parcels of land together with all improvements found thereon.

These properties, however, became the subject of a series of civil cases, to wit: Civil Case No. 2591[1] filed on July 10, 1974; Civil Case No. 2686[2] filed on February 8, 1975 and Civil Case No. 2807[3] filed on February 4, 1976. Such civil suits were filed with CFI Branch III, Bohol by Antonio Enriquez, petitioner herein against the heirs of Eutiquio Boyles, on the basis of a document of sale purportedly executed on February 25, 1959. Set forth in said document are the following:

"KNOW ALL MEN BY THESE PRESENTS:

We, Felicidad Angco Boyles 55 years old, Filipino, married to Venancio Gunayan and Loreto Aumentado Boyles 46 years old, Filipino, married to Jose Curiba, both with residence and postal address at Ubay, Bohol, Philippines, for and in consideration of the sum of Two Thousand Pesos (P2,000.00) Philippine currency, to us in hand paid in cash to our entire satisfaction by Antonio A. Enriquez 33 years old, Filipino, married to Noemi Del Valle, residing and with postal address at Calamba St., Cebu City, Philippines, do hereby Sell, Transfer and Convey absolutely and definitely unto the said Antonio A. Enriquez his heirs and assigns, all our rights, titles, interests and participations over those parcels of land together with all improvements found thereon and personal properties belonging to the deceased Eutiquio Boyles, now under administration as per Special Proceeding No. 278 pending before the Court of First Instance of Bohol, which rights, titles, interests and

participation over the said properties real and personal, we are the absolute owner in fee simple in accordance with the last will and Testament of the said deceased Eutiquio Boyles duly executed on August 4, 1945 which was already allowed and probated by the Probate (sic) Court of Tagbilaran, Bohol.

That by virtue of these presents, we, Felicidad Angco Boyles and Loreto Aumentado Boyles hereby renounced and waived whatever rights we may be entitled to in the future by reason of the death of the deceased Eutiquio Boyles.

In witness whereof we have signed this deed this 25 day of February, 1959 at Cebu City, Philippines."

The abovementioned cases suffered subsequent dismissals for non-suit. Thus, in Civil Case No. 2591, the lower court held:

"For failure on the part of the plaintiff to amend the complaint conformably with the order of the Court dated November 28, 1974, the complaint in instant case should be, as it is hereby ordered, dismissed."

While Civil Case No. 2686 was disposed of by the trial court as follows:

"WHEREFORE, in view of the foregoing considerations the complaint in instant case is hereby considered withdrawn, and, consequently, the same should be, as it is hereby ordered, dismissed without prejudice to the re-filing by Atty. Tomas Abapo, Jr. of the proper cause of action in instant case against the two (2) different sets of defendants."

In dismissing Civil Case No. 2807, the court a quo said:

"WHEREFORE, in view of the foregoing considerations, the plaintiff is hereby declared non-suited, and the complaint in above-entitled case should be, as it is hereby, dismissed without prejudice to re-ventilating the same when the plaintiff shall have already the time to appear before this Court."

Despite these setbacks, petitioner, resolute and undaunted filed on April 25, 1977, a complaint denominated as Civil Case No. 2929, for recovery of ownership of real property and/or real rights and interests thereto plus damages. Unlike in the previous civil cases filed, Civil Case No. 2929 impleads as defendants, only the private respondents herein. In Civil Case No. 2929, petitioner again predicates his claim on the same document of sale, insisting that private respondents sold their respective shares in the abovementioned pieces of land to him.

In their Answer, private respondents raised among others, the affirmative defense of res judicata, claiming that petitioner's right, if any, had been barred by the prior dismissal of Civil Cases Nos. 2591, 2686 and 2807, which are all based on a single actionable document of sale involving the same parties.

Agreeing with private respondents, Branch II, CFI Bohol dismissed Civil Case No. 2929 on the ground of res judicata. The trial court ruled that the dismissal of Civil Case No. 2591, the first civil case filed, operates as a bar to the filing of Civil Case No. 2929.

From the evidence presented, the trial court found that Civil Case No. 2591 and Civil Case No. 2929 involve the same parties and similar cause of action. It also construed the Order of dismissal of Civil Case No. 2591 as one with prejudice and, therefore, tantamount to an adjudication on the merits pursuant to the provisions of Section 3, Rule 17 of the Revised Rules of Court which reads:

"SEC. 3. Failure to prosecute. - If plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the court."

The trial court further observed that petitioner failed to file a motion for reconsideration from said order of

dismissal; neither did it appeal therefrom. Civil Case No. 2591, concludes the trial court, had therefore become final and executory.

On the basis of the foregoing, the trial court held that all the requisites of res judicata have been satisfied and accordingly, Civil Case No. 2591 constitutes a bar to the filing of Civil Case No. 2929.

Petitioner now resorts to the filing of the present petition for review of the decision below seeking its reversal by this Court.

According to petitioner, the principle of res judicata is inapplicable to subject case below. Citing the case of *Advincula v. Advincula*,^[4] petitioner theorizes that it was not the intention of the trial court hearing Civil Case No. 2591 to dismiss the same with prejudice, such that it will serve as a bar to subsequent litigations over the same issues and parties. For indeed, argued petitioner, he was able to file before the same court the subsequent civil cases numbered 2686 and 2807, which though dismissed thereafter, the orders issued thereon were expressly without prejudice.

We do not agree with petitioner.

The case of *Advincula v. Advincula* is not applicable in the case at bar. *Advincula* concerns an action for acknowledgment and support in which the judgment does not become final.

On the other hand, the case at bar has all the elements of res judicata. The following requisites for res judicata to operate are present: "(1) the essence of a final former judgment; (2) the former judgment was rendered by a court having jurisdiction over the subject matter and the parties; (3) the former judgment is a judgment on the merits; and (4) there is between the first and second actions, identity of parties, of subject matter and of cause of action."^[5]

As borne out by the facts, Civil Cases Nos. 2591 and 2929 implead the same parties and hinge on the same issue. The only pivotal inquiry for our consideration is whether the Order of dismissal of Civil Case No. 2591 is actually a judgment on the merits and has acquired a status of finality.

We rule in the affirmative. A perusal of said order shows that the dismissal of Civil Case No. 2591 was unqualified and occasioned by petitioner's failure to comply with the court's directive to amend the complaint. The trial court hearing Civil Case No. 2591 was, therefore, correct in applying Section 3, Rule 17 of the Revised Rules of Court,^[6] which clearly empowers the court to issue a dismissal for failure of the plaintiff (petitioner in this instance) to comply with any order of the court. Such dismissal is, under this Rule, with prejudice and tantamount to an adjudication on the merits.^[7] Thus, failure of petitioner to move for reconsideration or to appeal from such order dismissing Civil Case No. 2591 renders the same final. We reiterate therefore, the inevitable conclusion: All the requisites for the existence of res judicata are present. The dismissal of Civil Case No. 2591 consequently operates as a bar to the filing of Civil Case No. 2929.

The fact that petitioner was somehow able to file Civil Cases Nos. 2686 and 2807 is of no moment. They cannot resurrect and restore life anew into Civil Case 2591 which is already final, closed and terminated.

WHEREFORE, finding no reversible error committed by the trial court, the petition for review on certiorari is hereby DENIED and the decision in Civil Case No. 2929 AFFIRMED.

SO ORDERED.

Bidin, Melo, and Vitug, JJ., concur.

Feliciano, J., (Chairman), on official leave.

[1] Antonio Enriquez v. Felicidad Angco Boyles, Loreto Aumentado Boyles and Filomena Boyles del Valle. Complaint against private respondents herein, defendants in Civil Case No. 2591, is based upon the document executed by them on February 25, 1959.

[2] Antonio Enriquez v. Felicidad Angco Boyles, Loreto Aumentado Boyles, Filomena Boyles del Valle, Genoveva del Valle Serologia, Rosalia del Valle Hinaloc and Filomena del Valle. Complaint against defendants is based on the same document executed by them on February 25, 1959.

[3] Antonio Enriquez v. Felicidad Angco Boyles and Loreto Aumentado Boyles. Complaint is based upon the same document executed by defendnts on February 25, 1959.

[4] G.R. No. L-19065, January 31, 1964, 10 SCRA 189.

[5] Heirs of the Late Santiago Maningo v. Intermediate Appellate Court, G.R. Nos. 73559-62, March 26, 1990, 183 SCRA 691.

[6] Supra, p. 7.

[7] Lirag, et al. v. Galano, G.R. No. 46244, August 18, 1988, 164 SCRA 471.

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