

**LEONARDO AVEDAÑA AND PURIFICACION TIMBANG,
PLAINTIFFS-APPELLANTS, VS. MANOLITO BAUTISTA AND THE
COURT OF FIRST INSTANCE OF PASAY CITY, BRANCH XXIX,
DEFENDANTS-APPELLEES.**

G.R. No. 52092. April 08, 1986

Ponente: PATAJO, J.

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PATAJO, J.:

The then Court of Appeals in a resolution dated November 6, 1979 had certified to this Court as one involving purely questions of law the appeal of plaintiffs from the order of the Court of First Instance of Rizal in Civil Case No. 5961-P dismissing the complaint of plaintiffs for annulment of a judgment rendered by the Court of First Instance of Rizal in Civil Case No. 3782-P.

On November 11, 1977, plaintiffs-appellants filed with the Court of First Instance of Rizal an action to annul the decision of the Court of First Instance in Civil Case No. 3782-P, an action filed against them by defendant Manolito Bautista for recovery of possession of a parcel of land which the herein plaintiffs-appellants claimed to be occupied by them as lessees under a lease contract allegedly executed between Manuel Bautista, father of Manolito Bautista, defendant-appellee, and Fausta Timbang, mother of the herein plaintiffs-appellants, From the decision of the Court of First Instance of Rizal in said Civil Case 3782-P rendered on May 26, 1973, defendants appealed to the Court of Appeals which affirmed said decision with some modification on February 11, 1977.

In the complaint filed by plaintiffs to annul the judgment rendered in Civil Case 3782-P as amended, plaintiffs alleged:

"5. That the respondent Court, acting in evident bad faith and apparently leaning towards the cause of the private respondent then plaintiff in said case, on May 26, 1973 fraudulently rendered a decision for the private respondent, then plaintiff in said case, knowing as it does that from the facts alleged in the complaint (Annex 'A') it has no jurisdiction over the nature of the case, and for the benefit of the private respondent (then plaintiff in said case) disregarded the testimony of Manuel Bautista, who was the respondent's hostile witness, to the damage and prejudice of the herein plaintiffs, then defendants in the former case; xerox copy of which is attached hereto as Annex 'C';

"6. That even considering the fraudulent decision in question to be valid, the private respondent, stepping into the shoes of the late Manuel Bautista, has inherited all the rights and obligations of the same and as such, is bound by whatever contracts or agreements entered into by said Manuel Bautista, among which is an agreement of lease dated April 12, 1953 entered into by him with the late Fausta Timbang, deceased mother of the herein plaintiffs, which agreement could not now be assailed by the private respondent Manolito Bautista considering that the said agreement had long been complied with and effected by the contracting parties Manuel Bautista and Fausta Timbang and still existing up to the present, xerox copy of said agreement is attached hereto as Annex 'D' and forming parts hereof;"

Defendant filed a motion to dismiss the complaint alleging that plaintiffs' cause of action had already been barred by prior judgment (referring to the decision in Civil Case No. 3782P) and that plaintiffs' complaint was filed under the guise of a new suit to annul said judgment solely for the purpose of thwarting the execution of said decision which had long become final and executory.

The Court a quo in an order dated March 29, 1978 granted defendant's motion to dismiss. Plaintiffs moved for reconsideration of said order but said motion was denied by said Court. Plaintiffs appealed said order of dismissal in the Court of Appeals, and as stated above, the Court of Appeals certified the appeal to this Court as one involving purely questions of law.

We find no merit in the present appeal.

From the very allegations of the complaint it would appear that plaintiffs-appellants have not alleged any legal ground for the annulment of the decision in Civil Case 3782-P. The allegation that this Court fraudulently rendered a decision knowing from the facts alleged in the complaint it has no jurisdiction over the nature of the case is merely a conclusion of fact and law. Plaintiffs-appellants should have alleged ultimate facts justifying said conclusion.

The allegation of plaintiffs that the Court had rendered a decision in said Civil Case 3782-P had "for the benefit of the private respondent (then plaintiff in said case) disregarded the testimony of Manuel Bautista, who was the respondent's hostile witness, to the damage and prejudice of the herein plaintiff"[1] does not make out a case of extrinsic fraud. It is actually one involving a question of appreciation of evidence by the trial court.

The allegation that the owner of the property in question from whom the mother of plaintiffs had leased said property on April 12, 1953 was Manuel Bautista and not defendant Manolito Bautista and that Manolito Bautista is bound to respect said lease is actually part of plaintiffs' defense against the action to eject them. The trial court's finding adverse to plaintiffs on said particular question of fact is merely made in the exercise by the court of its jurisdiction.

Certainly plaintiffs have no case for nullifying the decision rendered in said case on ground of fraud for the only case of fraud that can be ground for annulment of judgment is extrinsic fraud as distinguished from intrinsic fraud. Extrinsic fraud is one that affects and goes into the jurisdiction of the court. It usually refers to any fraudulent act of the successful party in a litigation committed outside the trial of the case whereby the defeated party is prevented from presenting fully and fairly his side of the case. (*Palanca vs. The American Food Manufacturing Co.*, 24 SCRA 819, 826; *Libudan vs. Gil*, 45 SCRA 17, 27.

Although the stated ground of the motion to dismiss in the present case is that the action is barred by prior judgment, there are sufficient allegations in said motion, the tenor of which is that the action is actually one for annulment of judgment. In particular reference is made to the contention of defendant in his motion to dismiss:

"Faced with an impending execution of judgment against them plaintiffs herein filed this instant case simply to delay and prevent justice to take its natural course.

"It is a big surprise why plaintiffs herein (defendants before) now try to invoke fraud as their ground for annulment of the earlier case which is now the subject of a pending execution when they had all the opportunity long time ago. Why have they not filed a motion for new trial on said ground? Why have they not taken the other remedy such a motion for re-consideration and/or a petition to set aside judgment?

"Why have they not alleged fraud at bar be 'permitted to thwart the speedy and just execution of a final judgment on grounds of fraud which on its face is patently imaginary and untrue?"

"Litigations over the same thing and between the same thing and between the same parties must and sometime

and somewhere." (page 7, Record on Appeal)

The dismissal of the complaint by the Court a quo was, therefore, proper.

"But although the stated ground of the motion to dismiss is that the action is barred by prior judgment, there are allegations in the said motion the tenor of which is that the complaint does not assert sufficient cause of action. Viewed from this standpoint, the case was pro-perly dismissed, even though we disagree with some of the lower court's premises.

"Fraud to be ground for nullity of a judgment must be extrinsic to the litigation. Were not this the rule there would be no end to litigations, perjury being of such common occurrence in trials. In fact, under the opposite rule, the losing party could attack the judgment at any time by attributing imaginary falsehood to his adversary's proofs. But the settled law is that judicial determination however erroneous of matters brought within the court's jurisdiction cannot be invalidated in another proceeding. It is the business of a party to meet and repel his opponent's perjured evidence." (Almeda vs. Cruz, 84 Phil. 636, 641).

IN VIEW OF THE FOREGOING, judgment is hereby rendered sustaining the order of the lower Court dismissing plaintiffs' complaint and dismissing the herein appeal. With costs against plaintiff-appellants.

SO ORDERED.

Teehankee, C.J., Melencio-Herrera, Plana, and Gutierrez, Jr., JJ., concur.

[1] Paragraph 5 Complaint.

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