

**FLORDELIZA L. VALISNO AND HONORIO D. VALISNO, PETITIONERS,
VS. HON. JUDGE ANDRES B. PLAN, PRESIDING JUDGE OF THE COURT
OF FIRST INSTANCE OF ISABELA, SECOND BRANCH, AND VICENCIO**

...

G.R. No. 55152. August 19, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

Challenged in this petition for certiorari with prayer for a temporary restraining order are two [2] orders issued by respondent judge in Land Registration Case No. Branch II-N-204 of the then Court of First Instance of Isabela, Second Branch, entitled, "Application for Registration of Title, Vicencio Q. Cayaba, Applicant, versus Flordeliza Valisno and Honorio D. Valisno, Oppositors", the order dated July 2, 1980, dismissing the opposition filed by petitioners on the ground of res judicata, and the order dated September 19, 1980, denying petitioners' motion for reconsideration.

The antecedent are as follows:

On August 21, 1964, petitioners-spouses Flordeliza and Honorio Valisno purchased from the legal heirs of Agapita V. Blanco, namely, Guillermo, Guillermo, Jr., Manuel and Rosario, all surnamed Blanco, two parcels of land, particularly described as follows:

[a] "a tract of land situated at Sitio Sisim, Barangay Cabaruan, Municipality of Cauayan, Province of Isabela, having an area of Five Thousand (5,000) square meters or fifty (50) meters facing the Provincial Road by one hundred (100) meters long; bounded on the North by Pedro del Rosario, on the South by Alberto Tungangui, on the East by the Provincial Road; and on the West, by Terreno del Estado, now Matias del Rosario;"

and,

[b] "a parcel of land situated in the Municipality of Cauayan, Province of Isabela, having an area of Six Thousand Two Hundred Fifty (6,250) square meters or fifty (50) meters at the east side by one hundred twenty-five (125) meters at the North and South; bounded on the north by Matias del Rosario, on the south by Alberto Tungangui, on the east by Agapita Blanco and on the west by Cauayan Diversion Road and Matias del Rosario." [Annex "B", Petition, pp. 41-42, Rollo.]

Thereafter, petitioners declared the above-described parcels of land in their name for taxation purposes and exercised exclusive possession thereof in the concept of owners by installing as caretaker one Fermin Lozano, who had his house built thereon.

On August 12, 1968, private respondent Vicencio Q. Cayaba, claiming to be the owner of the land in question by virtue of a deed of sale executed in his and one Bienvenido G. Noriega's favor on June 30, 1967 by the heirs of Dr. Epifanio Q. Verano, ousted Fermin Lozano from possession of the land. He subsequently erected a six-door apartment on said land.

On January 22, 1970, petitioners instituted before the then Court of First Instance of Isabela a complaint against private respondent for recovery of possession of said parcels of land. The case, docketed as Civil Case No. Branch II-895, was in due time resolved in favor of petitioners who were declared owners thereof. On appeal, however, by private respondent to the then Court of Appeals, the appeal being docketed as CA-G.R. No. 60142-R, the appellate court in a decision promulgated on January 19, 1978, reversed the decision of the lower court and dismissed the complaint of petitioners on a finding that:

"Firstly, the 'land in question described in the complaint and sketched in Exhibit C x x x by Dr. Guillermo Blanco', is completely different from the land appearing in the Subdivision Plan of the appellant, their respective area and boundaries being completely dissimilar.

"Clearly, we fail to see any-thing in the evidence of the appellees showing that their property encroaches, much less covers that of the property presently occupied by the appellant, except the self-serving sketch prepared by the appellees' own witness, Dr. Blanco. We refuse to give any weight to this piece of evidence because it was prepared by someone who 'has an incentive to exaggerate or give false color to his statement or to suppress or prevent the truth or to state what is false. [Deering v. Wisona Harvester Workers, 155 U.S. Sup. Ct. Rep. 238]

"Therefore, as the land occupied by the appellant has not been successfully identified with that described in the complaint, the instant action should have been dismissed outright, in view of the provision of Article 434 of the New Civil Code which reads:

'Art. 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.'

as well as the doctrine enunciated in a long line of decision [sic] starting from Lim vs. Director of Lands, 64 Phil. 343.

"Secondly, it is undisputed that the appellant is the present occupant of the land since he purchased the same from Tomasita F. Verano on June 30, 1967, having constructed a six-door apartment in the premises which he lets to both transients and residents of the locality. Being the actual possessor of the property, he, therefore, possesses it with a just title and he need not show or prove why he is possessing the same. [Arts. 433 and 541 of the New Civil Code].

"Finally, between the evidence of the appellees and that of the appellant, We unhesitatingly choose the latter in the matter of identifying the property in question because it is a vicinity plan [Exhibit "8"] showing the position of the land in relation not only to the properties adjoining the same but also with known boundaries and landmarks in the area. On the other hand, the appellees' evidence, particularly the description in Tax Declaration No. 17009, is unreliable, since the area and boundaries of the property are mere estimations, reached thru pure guesswork. [Smith Bell & Co. vs. Director of Lands, 50 Phil. 879]. Expressing the same sentiment, one noted authority states:

'The proposition that in identifying a particular piece of land its boundaries and not the area are the main factors to be considered holds true only when the boundaries given are sufficiently certain and the identity of the land proved by the boundaries clearly indicates that an erroneous statement concerning the area can be disregarded.' [Bilog, Effective Judicial Implementation of Land and Forestry Laws, Fourth Advanced Course for Municipal Courts (1971), cit. Paterno v. Salud, L-15620, September 30, 1963]." (Annex "C-1", Petition, pp. 53-55, Rollo.]

A petition for review on certiorari of said decision filed by petitioners before this Court was denied due course.

Subsequently, on September 25, 1979, private respondent filed before the Court of First Instance of Isabela an application for registration in his name of the title of the lands in question, basing his entitlement thereto on the aforementioned deed of sale as well as the decision of the appellate court in CA-G.R. No. 60142-R. [Annex "A",

Petition, pp. 32-40, Rollo].

On April 26, 1980, petitioners filed an opposition to the application. [Annex "B", Petition, p. 41, Rollo] Private respondent, however, moved for the dismissal of said opposition on the ground that the same is barred by a prior judgment, i.e., the appellate court's decision in CA-G.R. No. 60142-R. Despite the opposition of petitioners to said motion to dismiss, the lower court issued the first of the assailed orders dismissing the petitioner's opposition on the ground of *res judicata*. [Annex "E", Petition, p. 83, Rollo] When their motion for reconsideration was denied, petitioners filed the instant petition, raising as grounds therefor the following:

"RESPONDENT JUDGE ERRED GRAVELY IN DISMISSING PETITIONERS' OPPOSITION TO RESPONDENT'S APPLICATION FOR REGISTRATION OF TITLE, WHICH IS HIGHLY IRREGULAR IN LAND REGISTRATION PROCEEDINGS.

RESPONDENT JUDGE ERRED GRAVELY IN DISREGARDING THE PRECEDENT OF *ABELLERA VS. FAROL* THAT *RES JUDICATA* CANNOT BE SET UP IN A LAND REGISTRATION CASE.

RESPONDENT JUDGE ERRED GRAVELY IN HOLDING THAT THE REQUISITES FOR *RES JUDICATA* EXIST IN THE CASE AT BAR, ASSUMING ARGUENDO THAT A MOTION TO DISMISS OPPOSITION IS PROPER IN A LAND REGISTRATION CASE, AND THAT *RES JUDICATA* MAY BE RAISED IN SAID MOTION TO DISMISS.

RESPONDENT JUDGE ERRED GRAVELY IN DEPRIVING PETITIONERS HEREIN OF THEIR DAY IN COURT, SPECIALLY IN THE FACE OF STRONG INDICATIONS, ALREADY IN THE RECORD, THAT RESPONDENT CAYABA IS ACTUALLY TRYING TO SECURE TITLE TO WHAT REALLY IS THE LAND OF THE PETITIONERS.

RESPONDENT JUDGE ERRED GRAVELY, WITH GRAVE ABUSE OF DISCRETION AND IN EXCESS OF JURISDICTION IN ISSUING HIS ORDERS OF JULY 2, 1980 [ANNEX "E"] AND SEPTEMBER 19, 1980 [ANNEX "H"]. (pp. 18-19, Rollo)

On April 1, 1981, this Court gave due course to the petition and required the parties to file their briefs. Petitioners did so on August 26, 1981. Private respondent, on the other hand, failed to file his brief within the given period which expired on October 9, 1981. Thus, the case was considered submitted for decision without the brief of private respondent.

On July 8, 1985, this Court received a copy of the motion to amend application filed by Bienvenido G. Noriega, Sr., thru counsel, in LRC Case No. Br. II-N-204, praying that he be included as co-applicant to the land sought to be registered.

In the course of our study of pertinent jurisprudence, We observe that the situation obtaining in the case at bar, i.e., a motion to dismiss the opposition having been filed and more importantly, granted, is indeed unique and peculiar. But while this may be so, it is not highly irregular as petitioners would characterize it.

Verily, the Land Registration Act [Act 496] does not provide for a pleading similar or corresponding to a motion to dismiss. Rule 132 of the Rules of Court, however, allows the application of the rules contained therein in land registration proceedings in a suppletory character or whenever practicable and convenient. Thus, for the expeditious termination of the land registration case, this Court in *Duran v. Oliva*, 3 SCRA 154, sustained the dismissal of the application for registration of therein appellants upon a motion to dismiss filed by five [5] oppositors, it having been indubitably shown that the court *a quo* did not have jurisdiction over the *res* as the lands sought to be registered in appellants' name had previously been registered in the names of the oppositors. To have allowed the registration proceeding to run its usual course would have been a mere exercise in futility. The same consideration applies to the case at bar.

It must be noted that the opposition partakes of the nature of an answer with a counterclaim. In ordinary civil cases, the counterclaim would be considered a complaint, this time with the original defendant becoming the plaintiff. The original plaintiff, who becomes defendant in the counterclaim may either then answer the counterclaim or be declared in default, or may file a motion to dismiss the same. The latter choice was what respondent Cayaba opted for. Although as we have earlier said, such situation rarely, if ever, happens in land registration cases, the irregularity that petitioners complain of stems basically from the infrequent use of a motion to dismiss in land registration cases, and not from it being unauthorized.

The case of *Abellera vs. Farol*, 74 Phil. 284, heavily relied upon by petitioners needs re-evaluation. In said case, Mr. Justice Bocobo, speaking for the Court, ruled that "while in a cadastral case, *res judicata* is available to a claimant in order to defeat the alleged rights of another claimant, nevertheless, prior judgment can not be set up in a motion to dismiss." Concurring in said opinion were then Chief Justice Yulo and Associate Justices Moran and Ozaeta. Mr. Justice Paras dissented, saying "in my opinion, Rule 132 in connection with Rule 8 of the Rules of Court, instead of prohibiting expressly authorizes the lower court in land registration or cadastral proceedings to entertain a motion for dismissal on the ground of *res judicata* or prescription. Of course, the dismissal of petitioner's claim will not necessarily automatically mean adjudication of title to the individual respondents but it will certainly facilitate the consideration of their claims which cease to be contested. Prompt disposal of cases or such claims is the main purpose of said rules. Let there be no retrogression in the application of sound rules and doctrines." [Ibid, pp. 286-287] In support of his opinion, Justice Paras cited the cases of *Menor v. Quintana*, 56 Phil. 657, *Versozza v. Nicolas*, 29 Phil. 425 and *Santiago v. Santos*, 54 Phil. 619, wherein the Court invariably ruled that "a final judgment in an ordinary civil case determining the ownership of certain land is *res judicata* in a registration case when the parties and the property are the same as in the former case." [*Menor v. Quintana*, supra.]

There is no doubt that the principle of *res judicata* operates in the case at bar. For said principle to apply: [a] the former judgment must be final, [b] it must have been rendered by a court having jurisdiction of the subject matter and of the parties, [c] it must be a judgment on the merits and [d] there must be between the first and second actions, identity of parties, of subject matter and of cause of action. [*Carandang v. Venturanza*, 133 SCRA 344] The decision in C.A. G.R. No. 60142-R is a final judgment on the merits rendered by a court which had jurisdiction over the subject matter and the parties. There is, between the registration case under consideration and the previous civil action for recovery of property, identity of parties, subject matter and cause of action. The inclusion of private respondent Cayaba's co-owner, *Bienvenido Noriega, Sr.*, in the application for registration does not result in a difference in parties between the two cases. One right of a co-owner is to defend in court the interests of the co-ownership. [Paras, *Civil Code of the Philippines, Annotated*, Vol. II, 7th Edition, p. 258] Thus, when private respondent Cayaba defended his ownership over the land in question, he was doing so in behalf of the co-ownership. This is evident from the fact that one of the evidence he presented to prove ownership was the deed of sale executed by the heirs of Dr. Epifanio Q. Verano in his and *Bienvenido Noriega's* favor.

With respect to the subject matter, there can be no question that the land sought to be recovered by petitioners are the very same parcels of land being sought to be registered in Cayaba's and *Noriega's* names.

While the complaint in the first action is captioned for recovery of possession, the allegations and the prayer for relief therein raise the issue of ownership. In effect, it is in the nature of an *accion reivindicatoria*. The second case is for registration of title. Consequently, between the two cases there is identity of causes of action because in *accion reivindicatoria*, possession is sought on the basis of ownership and the same is true in registration cases. Registration of title in one's name is based on ownership. In both cases, the plaintiff and the applicant seek to exclude other persons from ownership of the land in question. The only difference is that in the former case, the

exclusion is directed against particular persons, while in the latter proceedings, the exclusion is directed against the whole world. Nonetheless, the cause of action remains the same. In fact, this Court held in *Dais v. Court of First Instance of Capiz*, [51 Phil. 896] that the answers in a cadastral proceedings partake of an action to re-cover title, as real rights are involved therein. It is only the form of action which is different. "But the employment of two different forms of action, does not enable one to escape the operation of the principle that one and the same cause of action shall not be twice litigated." [*Yusingco v. Ong Hing Lian*, 42 SCRA 590 and the cases cited therein, *Gonzales v. Gonzales*, 26. SCRA 76; *Aguilar v. Tuason Co.*, 22 SCRA 690; *Albano v. Coloma*, 21 SCRA 411; *Sumarariz v. Development Bank of the Phil.*, 21 SCRA 1378; *Abes, et al. v. Rodil, et al.*, 17 SCRA 824; *Cayco, et al. v. Cruz et al.*, 106 Phil. 68; *Ma. Garcia de Lim Toco v. Go Pay*, 81 Phil. 258; *San Diego v. Cardona, et al.*, 70 Phil. 281].

It does not matter that the first case was decided by a court of general jurisdiction, while the second case is being heard by one of a limited jurisdiction, such as a registration court. It is enough that the court which decided the first case on the merits had validly acquired jurisdiction over the subject matter and the parties. That both courts should have equal jurisdiction is not a requisite of *res judicata*.

If, as the *Abellera* case, *supra*, held that *res judicata* can be set up by a claimant to defeat the alleged right of another claimant, what useful purpose would be served by allowing a party to present evidence of ownership over the land sought to be registered when the final result would necessarily be in favor of the claimant who had set up the defense of *res judicata*? And supposing the land registration court finds that the party against whom the principle of *res judicata* operates does have a better right or title to the land, what happens to the principle of *res judicata*? Can a court sitting as a land registration court in effect, annul a final judgment of another court of general jurisdiction?

To our mind, therefore, the better policy, both for practicality and convenience, is to grant the dismissal of either the application for registration or the opposition thereto, once it has been indubitably shown, as in the case at bar, that one or the other is barred by a prior judgment. The ruling in the *Abellera* case, should therefore be, as it is, hereby abandoned.

Petitioners complain that by dismissing their opposition, respondent court had denied them their day in court. It is well to remind petitioners that they had their day in court in Civil Case No. Branch II-895 as well as C.A. G.R. No. 60142-R, where their claim over the land in question was fully aired and ventilated.

The conflicting claims of petitioners and respondent Cayaba [in behalf of the co-ownership] with respect to the land under consideration had been put to rest in C.A. G.R. No. 60142-R. Said decision having attained finality, the same remains the law of the case between the parties.

Finding no error to have been committed by respondent judge in dismissing petitioners' opposition, such dismissal must be affirmed.

WHEREFORE, the instant petition is hereby dismissed. Cost against petitioners.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

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