

**ARSENIO FLORENDO, JR., MILAGROS FLORENDO AND BEATRIZ FLORENDO, PETITIONERS, VS. HON. PERPETUA D. COLOMA, PRESIDING JUDGE OF BRANCH VII, CITY COURT OF QUEZON CITY; GAUDENCIO TOBI...**

*G.R. No. 60544. May 19, 1984*

Ponente: GUTIERREZ, JR., J.

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**GUTIERREZ, JR., J.:**

In this petition for certiorari with preliminary injunction, the petitioners seek the annulment of: (1) the May 20, 1975 decision of the respondent court in Civil Case No. VII-17952 for ejectment entitled Adela Salindon v. William Vasquez and Silverio Nicolas; (2) the August 3, 1981 writ of execution issued by the respondent court; and (3) the March 1, 1982 order also issued by the respondent court directing the Register of Deeds of Quezon City to annul Transfer Certificate of Title No. 138007 in the name of Adela Salindon and Transfer Certificate of Title No. 239729 in the name of the petitioners.

On July 11, 1969, Adela Salindon an awardee of a Philippine Homesite and Housing Corporation (hereinafter referred to as PHHC) lot filed a complaint for ejectment against William Vasquez and Silverio Nicolas with the respondent court. The disputed residential lot, located at Diliman, Quezon City, is more particularly described as follows:

""Residential lot situated at Quezon City, Philippines, covered by Transfer Certificate of Title No. 138007, in the name of the herein plaintiff, containing an area of 915.00 square meters. Designated as Lot No. 1, Block No. 101 Psd-68808 Diliman Estate Subdivision. Bounded on the SW-by Lot No. 2, Block 101; of the subdivision plan; on the NW-by Road Lot 8, Pcs-4564; on the NE by Road Lot 96; and on the SE by Lot No. 12, Block 101; both of the Subdivision plan."

In her complaint, Salindon alleged that the defendants were squatters occupying her property.

Defendant William Vasquez denied his being a squatter in the subject parcel of land. He alleged that he had been in continuous, open, adverse and actual possession and occupation of the lot since 1950. He also questioned the city court's jurisdiction over the subject matter of the action stating that the facts alleged in the complaint involved questions of title or ownership of the lot, matters outside the jurisdiction of the respondent court. He further questioned the qualifications of Salindon to purchase the disputed lot from the PHHC, as she was the owner of several other registered real estate properties and an outsider in so far as the lot was concerned.

On March 12, 1971, defendant Silverio Nicolas died. He was substituted by his wife Erlinda who filed an amended answer with third party complaint against PHHC. In his answer, Nicolas had denied that he was a squatter on the lot. He alleged that he had been a possessor and occupant of a piece of residential lot located at Malaya Avenue, continuously, openly, publicly and adverse to any other claimant and under concept of an owner for more than ten years. Like defendant Vasquez, he also questioned the jurisdiction of the respondent court over the subject matter of the action and the qualifications of Salindon to purchase the subject parcel of land.

Third-Party defendant PHHC admitted the sale of the disputed land to Adela Salindon. According to PHHC, the award of the lot to Salindon was a valid exercise of the PHHC's powers and could not be collaterally assailed; the illegal acts of the defendants could not ripen into legal ones; the defendants being squatters have not acquired any vested right over the property and that, since the subject lot is not a relocation area intended for squatters, the defendants can not claim preference in the award of the lot. The PHHC also questioned the jurisdiction of the city court over the third party complaint on the following grounds: (1) cancellation of the deed of sale executed in favor of Salindon amounts to an action for rescission of contract which falls within the original and exclusive jurisdiction of the Court of First Instance; and (2) the action involves title or possession of real property, hence the action against PHHC should be dismissed for lack of jurisdiction.

After trial on the merits, the respondent court issued a decision in favor of the defendants. The dis-positive portion of the decision reads:

WHEREFORE, this Court renders judgment in favor of the defendants and against the plaintiff as follows:

- (1) declaring the conditional and the absolute deeds of sale executed by the PHHC in favor of the plaintiff Adela Salindon as null and void; and
- (2) ordering the PHHC to award the lot in litigation to the defendant William Vasquez and Erlinda Nicolas and, upon pay-ment by said defendants of the total consideration within 30 days from notice of this decision, to execute the corresponding deed of absolute sale in their favor.

On August 25, 1975 Adela Salindon appealed the afore-quoted decision to the Court of Appeals.

On December 11, 1976, Salindon died. There was, however, no substitution of party, hence Salindon continued to be the appellant in the appealed case. On March 21, 1977 the case was remanded to the city court for the retaking of testimony which could not be considered because the stenographic notes could not be transcribed. The deceased Salindon continued to be an adverse party. Meanwhile, after Salindon's death, her heirs settled her estate and the subject lot was transferred with a new Transfer Certificate of Title to the petitioners.

On July 31, 1980 the Court of Appeals issued a Resolution ordering plaintiff-appellant Salindon to show cause why her appeal should not be dismissed.

On December 4, 1980, the Court of Appeals issued another Resolution dismissing the appeal for having been abandoned.

On August 3, 1981, respondent court issued a writ of execution to enforce the decision.

On November 7, 1981, respondent General Manager Gaudencio Tobias of the National Housing Authority (hereinafter referred as NHA), successor to the powers and functions of the PHHC, wrote a letter to private respondents informing them that the NHA was ready to implement the decision and suggesting that in order to avoid delay, they secure an order directing the Registrar of Deeds of Quezon City to cancel Transfer Certificate of Title No. 239729.

On February 16, 1982 respondent William Vasquez filed a motion for the issuance of an order directing the Quezon City Register of Deeds to cancel TCT No. 138007 in the name of Adela Salindon and TCT No. 239729, in the name of petitioners. A similar motion was filed by respondent Erlinda Nicolas.

On March 19, 1982, petitioner Arsenio Florendo Jr., filed a manifestation and opposition to the motions for cancellation alleging that the court has no jurisdiction to order the cancellation of the titles.

Hence, the instant petition.

Considering the circumstances of the case, a preliminary issue surfaces as to the status of the decision vis-a-vis the petitioners. The petitioners challenge the proceeding in the Court of Appeals after the death of the plaintiff-appellant Adela Salindon. They are of the opinion that since there was no legal representative substituted for Salindon after her death, the appellate court lost its jurisdiction over the case and consequently, the proceedings in the said court are null and void. This argument is without merit.

There is no dispute that an ejectment case survives the death of a party. The supervening death of plaintiff-appellant Salindon did not extinguish her civil personality (*Republic v. Bagtas*, 6 SCRA 242; *Vda. de Haberes v. Court of Appeals*, 104 SCRA 534). Section 17, Rule 3 of the Rules of Court provides:

"After a party dies and the claim is not thereby extinguished the court shall order upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased within a period of thirty (30) days, or within such time as may be granted. x x x"

Section 16 of Rule 3 provides:

"Whenever a party to a pending case dies x x x it shall be the duty of his attorney to inform the court promptly of such death x x x and to give the name and residence of the executor, administrator, guardian or other legal representative of the deceased x x x."

In the case at bar, Salindon's counsel after her death on December 11, 1976 failed to inform the court of Salindon's death. The appellate court could not be expected to know or take judicial notice of the death of Salindon without the proper manifestation from Salindon's counsel. In such a case and considering that the supervening death of appellant did not extinguish her civil personality, the appellate court was well within its jurisdiction to proceed as it did with the case. There is no showing that the appellate court's proceedings in the case were tainted with irregularities.

It appears that the petitioners are heirs of Adela Salindon. In fact, it was because of this relationship that the petitioners were able to transfer the title of Adela Salindon over the subject lot to their names. After Salindon's death, the disputed lot was included as part of her estate. Salindon's counsel, whose acts bind his client, failed to comply with his duty to the court and his deceased client. Considering all this, the appellate decision is binding and enforceable against the petitioners as successors-in-interest by title subsequent to the commencement of the action (Section 49 (b) Rule 39, Rules of Court). Furthermore, "x x x judgment in an ejectment case may be enforced not only against defendants therein but also against the members of their family, their relatives, or privies who derived their right of possession from the defendants" (*Ariem v. De los Angeles*, 49 SCRA 343). Under the circumstances of this case, the same rule should apply to the successors-in-interest if the decision should go against the original plaintiff.

We note, however, that the petitioners challenge the decision on the ground that the respondent city court had no jurisdiction in the first instance over the ejectment complaint.

In this respect, the petitioners are correct. Adela Salindon filed an ejectment case to evict alleged squatters who were in possession of a lot awarded to her by the PHHC. Instead of dealing with the case as a simple one of ejectment and handling the issues within the confines of its limited jurisdiction, the respondent city court went further into territory out of bounds to it and cancelled the administrative determinations of the PHHC, rescinded the deeds of sale, usurped the powers of the administrative agency by awarding the government lots to the defendants on the basis of evidence clearly inadequate from the records and by the rules of the agency to sustain such awards, conclusively adjudicated on the basis of irregular proceedings the ownership of the disputed lot, and ordered the cancellation of Torrens titles already issued in the petitioners' names.

May the petitioners take advantage of this lack of jurisdiction?

As a rule, the issue of jurisdiction is not lost by waiver or by estoppel. The time-honored principle is that "x x x jurisdiction of a court is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal x x x". (*Calimlim v. Ramirez*, 118 SCRA 399). This principle, however, is not absolute. There are cases wherein we ruled that because of their exceptional and peculiar circumstances, a party is estopped from invoking the lack of the court's jurisdiction. (*Tijam v. Sibonghanay*, 23 SCRA 29; *Crisostomo v. Court of Appeals*, 32 SCRA 543). We always look into the attendant circumstances of the case so as not to subvert public policy. (See *Paro v. Court of Appeals*, 111 SCRA 262).

This is one such case where the successors-in-interest of the original plaintiff are estopped from questioning the jurisdiction of the respondent court. Adela Salindon, the original plaintiff in the ejectment case consistently maintained her stand that the respondent court had jurisdiction over the ejectment complaint. She insisted on this jurisdiction over the opposition of the defendants, the private respondents herein. Thus, she filed a lengthy memorandum against the dismissal of the complaint after the trial on the merits of the case and made an emphatic justification of the jurisdiction of the respondent court.

The following rule applies:

"x x x a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated obviously for reasons of public policy." (*Tijam v. Sibonghanoy*, *supra*)

Equitable considerations cannot also help the petitioners. Their own deed of extra-judicial partition dated March 31, 1977 shows that Adela Lucero Salindon left forty four (44) parcels of land, forty two (42) of which were in Pangasinan, one (1) parcel in Natividad Street, Manila and the disputed parcel in Quezon City. There is no showing in the records that the forty (43) other parcels were either not owned by Salindon when the PHHC lot was awarded to her or that ownership of these lots and of 706,684 shares of stock in such blue chip corporations as Lepanto Consolidated Mining Co., Philippine Overseas Drilling and Oil Development Corporation, etc. did not disqualify her from applying for a PHHC lot. There is no showing from the records that the petitioners would suffer from a denial of substantial justice if the foregoing rules are applied to them.

The private respondents, however, stand on an entirely different footing. As defendants in the ejectment case they vigorously questioned the jurisdiction of the city court. They cannot now take advantage of a decision issued in excess of jurisdiction and in doing so abandon a principal averment in their respective answers. The respondent court had no jurisdiction to take over the functions of the PHHC and award ownership of the lot to them.

Not only was the decision of the city court rendered without jurisdiction, it was also erroneously irregular to the point of constituting grave abuse of discretion.

The PHHC was correct when it stated that squatters and intruders who clandestinely enter into titled government property cannot, by such act, acquire any legal right to said property. There is no showing in the records that the entry of the private respondents into the lot was effected legally and properly. An act which was illegal from the start cannot ripen into lawful ownership simply because the usurper has occupied and possessed the government lot for more than ten (10) years, cleared it of cogon grass, fenced it, and built a house on the premises. No vested

rights should be allowed to arise from the social blights and lawless acts of squatting and clandestine entrance. True, the government by an act of magnanimity and in the interest of buying social peace through the quieting of mass unrest may declare usurped property as a "relocation" area for the squatters. However, the records fail to show that there has been such action insofar as the disputed lot is concerned or that the private respondents fall within such a policy or that they have complied with the usual requirements before the benefits of relocation may be given them. At any rate, this was for the PHHC, now the NHA, to decide and not the city court.

Under the circumstances of this case, the ownership of the disputed lot remains with the National Housing Authority. The NHA may use the authority of this decision to evict the private respondents and their successors-in-interest from the property and deal with the lot according to its present powers vested by law and in the light of its current policies and programs. This decision, however, should not be interpreted to preclude the private respondents from introducing evidence and presenting arguments before the National Housing Authority to establish any right to which they may be entitled under the law and the facts of the case.

WHEREFORE, the decision dated May 20, 1975, the writ of execution dated August 3, 1981 and the order to annul TCT Nos. 138007 and 239729 dated March 1, 1982, all issued by the respondent city court are nullified and set aside for having been issued in excess of jurisdiction and with grave abuse of discretion insofar as the private respondents are concerned. Considering our findings as regards the petitioner, the Registrar of Deeds for Quezon City is hereby ordered to cancel TCT No. 239729 in the names of the petitioners and TCT No. 138007 in the name of Adela Salindon. The National Housing Authority is declared the owner of the disputed lot and is directed to take possession of the same and to either hold or dispose of it according to law and this decision. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, and De La Fuente, JJ., concur.

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