

BENEDICTO MALIA, ASUNCION MALIA, ELISEA MALIA, RODOLFO MALIA, ARMANDO MALIA, ADELAIDA DE GUZMAN, RENATO MALIA AND ISABELITA MALIA, PETITIONERS, VS. THE HON. INTERMEDIATE AP-PELL...

G.R. No. 66395. August 07, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petition to review a decision of the Intermediate Appellate Court.

Ambrocio Malia instituted Civil Case No. N-2336 in the Court of First Instance of Cavite against Basilia Malia and other persons plus the Municipality of Noveleta. The suit was for "annulment of partition with sale, annulment of donation and reconveyance with damages, and application for writ of preliminary injunction."

Ambrocio Malia died during the pendency of the case and he was substituted by his heirs who are the petitioners in the herein proceedings. The trial court gave judgment in favor of the substituted plaintiffs and against the defendants except the Municipality of Noveleta. The judgment concerning said municipality reads:

"However, the Deed of Donation executed by defendants Pacifico Aquino, Remedios Alvarez and Bella and Bessie Alvarez on November 9, 1970 in favor of the Municipality of Noveleta, Cavite, is declared valid and binding." (Record on Appeal, p. 168.)

The individual defendants appealed the decision to the Intermediate Appellate Court. The Municipality of Noveleta did not of course appeal the judgment which was favorable to it. Neither did the substituted plaintiffs appeal the judgment against them and in favor of the municipality.

The Intermediate Appellate Court affirmed the judgment of the trial court in toto except that portion relative to the Municipality of Noveleta where it said:

"However, the judgment of the court a quo in favor of the Municipality of Noveleta, Cavite, not having been appealed is now final and laid to rest." (Rollo, p. 60.)

The substituted plaintiffs in the instant petition pray for the reversal of the Intermediate Appellate Court's decision "insofar as the judgment in favor of the Municipality of Noveleta is concerned."

After deliberating on the petition, the Court resolved to dismiss it for lack of merit. The judgment in favor of the Municipality of Noveleta, whether correct or not, attained finality when the substituted plaintiffs did not appeal it.

WHEREFORE, the petition is dismissed with costs against the petitioners.

SO ORDERED.

Makasiar, C.J., Aquino, Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

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