

**SPOUSES AVELYN B. ANTONIO AND CONRADO A. ANTONIO,
PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, MACEDONIO
MONJE AND REGIONAL TRIAL COURT OF BAGANGA, BRANCH VII,
RESPONDENTS.**

G.R. No. 69696. December 07, 1992

Ponente: ROMERO, J.

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ROMERO, J.:

This petition for review on certiorari seeks the reversal of the decision of October 2, 1984 of the then Intermediate Appellate Court dismissing the petition to annul the decision of the then Court of First Instance of Davao Oriental, Branch I at Mati, on the grounds of *res judicata* and wrong mode of appeal.

The records show that on January 16, 1967, the spouses Conrado Antonio and Avelyn Balanay bought from Carolina Balanay and Nicanor Manguio three parcels of land Lot 1 of Plan F-100190 of the Bureau of Lands covered by Original Certificate of Title No. 1020 with an area of 15,903 square meters, Lot 2 of the same plan and covered by the same title, and Lot No. 2401 of the Baganga Cadastre. The deed of sale states that the title and ownership of the vendors, the spouses Carolina Balanay and Nicanor Manguio, are evidenced by a deed executed by the heirs of Catalino Manguio, who, with his wife Andrea Pansaon, originally owned the land. In view of the sale to the Antonios, Transfer Certificate of Title No. T-9643 covering Lot 1 was issued on January 26, 1967 in their names.

Claiming that 7,500 square meters of Lot 1 had been sold to him on September 2, 1962 by Andrea Pansaon, Zosimo, Felimon, Rodriguez, Noveleta and Anacleto, all surnamed Manguio, Macedonio Monje filed on October 12, 1976, in the then Court of First Instance of Davao Oriental a complaint seeking the annulment of the deed of sale between the spouses Carolina Balanay and Nicanor Manguio and the heirs of Catalino Manguio as well as TCT No. T-9643 in the name of the Antonio spouses (Civil Case No. 007-125). According to Monje, after the sale in his favor, Nicanor Manguio refused to have his (Monje's) title annotated at the back of OCT No. 1020. As he had allegedly redeemed the shares of Nicanor and Vegilio for P200.00, Monje also prayed that he be declared as having validly redeemed a 2,500-square-meter portion of the same property.

The Antonio spouses filed an answer alleging nullity of the sale to Monje on the ground that the vendors are native Mandays or members of a cultural minority and, therefore, the deed of sale in favor of Monje should have been verified, investigated and approved by the Commissioner of National Integration.

Purportedly because the venue of the case was a farflung coastal town which can be reached only by a small boat or a three-seater airplane, the Antonio spouses, who lived in the city, failed to receive personally any notice of hearing which could have been addressed to their counsel, who, in the meantime, had withdrawn his services. Thus, on August 27, 1981, the court rendered a decision based mainly on the evidence adduced by Monje. Its dispositive portion states:

"WHEREFORE, Judgment is hereby rendered, declaring the 2nd and 3rd deeds of sale of the property in question null and void and transfer certificate of title No. 9643 likewise null and void; ordering the defendants jointly and solidarily to pay the plaintiff moral damages of P30,000.00 and actual damages of P20,000.00, with legal interest until the amount is fully paid; and, to pay the costs.

Let a copy of this decision be served on the Register of Deeds at Mati, Davao Oriental, for appropriate action.

SO ORDERED."

The Antonios filed a motion for the reconsideration of said decision but it was denied by the lower court in its order of May 26, 1982. They received a copy of said order on June 30, 1982[1] but it appears that they failed to interpose a timely appeal. Hence, on August 18, 1982, the Antonios filed in this Court a petition for certiorari docketed as G.R. No. 61423 alleging that the lower court abused its discretion and deprived them of their right to due process when it set the case for hearing notwithstanding its receipt of their counsel's notice of withdrawal of appearance. On August 25, 1982, the Court referred the petition to the Court of Appeals which docketed it as CA-G.R. No. 14885-SP.

The Court of Appeals denied the petition on October 12, 1982.[2] The Antonios filed a motion for the reconsideration of said decision and, after its denial, a second motion for reconsideration. In the resolution of January 27, 1983,[3] the then Intermediate Appellate Court denied the second motion for reconsideration reasoning out in the main that the petition for certiorari filed by the Antonios was not the proper mode for the review of the merits of the decision of the lower court.[4]

Hence, on February 28, 1983, the Antonios filed in this Court a petition captioned as one for certiorari. Actually, it was a petition for review on certiorari praying for the reversal of the decision of the Intermediate Appellate Court. Docketed as G.R. No. 63479, the petition was denied on March 25, 1983 for having been filed out of time and for late payment of the legal fees.[5]

Undaunted, on December 27, 1983, the Antonios filed in the then Intermediate Appellate Court an Original petition for the declaration of nullity of the decision of the lower court. Docketed as AC-G.R. SP No. 02352, the petition alleged that while the sale between Carolina Balanay and the heirs of Catalino Manguio "had been duly registered and approved by the office of the Governor or the PANAMIN as required by law," the sale between Monje and the said heirs was not so registered and approved and therefore the latter sale was invalid and inexistent; that the decision of the court below was "absolutely null and void from the beginning" because it was rendered without giving them a chance to have their day in court to prove that TCT No. 9643 had been legally acquired and the same was issued in accordance with law; that as the actual possessors of the land in controversy, they were shocked by the award of P50,000.00 to Monje, and that on account of the wrongful acts of the respondents, they were forced to hire the services of counsel. Aside from their prayer for the annulment of the decision of the lower court, the petitioners also prayed for the award of P50,000 as moral damages, P20,000 as attorney's fees and P10,000 as actual damages.

On October 2, 1984, the Intermediate Appellate Court promulgated a decision[6] dismissing the petition. It explained the dismissal thus:

"It would appear clearly then from the decision of the Court of Appeals in CA-G.R. No. 14885-SP that what petitioners seek in the present case are the very same ones which have already been ruled upon and denied by the Court in the certiorari proceedings. Petitioners should not be allowed to relitigate what have already been decided in said case.

Equally important is the fact that there is no allegation in the present petition to the effect that the decision sought to be annulled was null and void because it was obtained through extrinsic fraud, that is, fraud affecting

the jurisdiction of respondent Court. *Libudan vs. Gil*, 45 SCRA 17. As already held by the Court of Appeals in CA-G.R. No. 14885-SP, the question of the nullity of the title of private respondent because of non-compliance with the requirement regarding sales made by members of the cultural minority is a matter that is addressed to the merits of the case which should have been raised by petitioners on appeal. Unfortunately, petitioners failed to appeal from the decision in question and their petition for certiorari to annul the same had been denied by the Court."

Their motion for the reconsideration of said decision having been denied, petitioners filed the instant petition for review on certiorari. They cite as reasons for the allowance of their petition the following: (a) the contract of sale in favor of Monje was inexistent as it was not approved by the proper government authority, the vendors being members of a cultural minority, and therefore no valid judgment can be predicated upon an inexistent contract; (b) at the very least, the decision of the trial court is void with respect to the portion covered by TCT No. 9643 which was never the subject of the litigation, and (c) the lower court abused its discretion in awarding P50,000.00 damages to Monje concerning property he had bought for only P1,000 as such award was not supported by evidence and, therefore, this Court must exercise its constitutional power to review and reverse or modify final judgments of inferior courts.

At the outset, it should be noted that the petitioners herein resorted to the special civil action of certiorari before this Court when after losing the case in the lower court, it dawned on them that they had lost the right to appeal. Indeed, failure to perfect an appeal within the reglementary fifteen-day period renders final and executory the questioned decision^[7] and deprives the Court of jurisdiction to alter the final judgment.^[8] The petitioners herein, having failed to appeal the decision of the lower court, are deemed to have waived their right to question its intrinsic defects.

Moreover, as their failure to appeal is not clearly explained, they should learn to live with the consequences of their inaction or omission. Their resort to the petition for certiorari was a vain attempt to reopen the case for review but, as the Intermediate Appellate Court declared in its decision in CA-G.R. No. 14885-SP, no question of jurisdiction was involved and petitioners filed the petition for certiorari "merely as a substitute for an appeal which they failed to pursue."^[9] Thus, the issue of the validity of the sale to Monje which goes into the very merits of the case, may no longer be reopened and reviewed by this Court.

However, while certiorari does not lie to correct errors of judgment which may be ventilated only on appeal,^[10] this Court cannot close its eyes to a defect of any decision which, if tolerated, may result in an injustice to any litigant. The Court's duty to render justice is so encompassing that even if an issue has not been raised as an error by the parties, it may review the same if the exercise of such duty is necessary in arriving at a just resolution of a case.^[11] And, although it is not a trier of facts, this Court may still wade through the records of a case if only to prevent delay in its disposition.^[12]

A thorough study of this case reveals a very disturbing aspect in the decision of the court below which is tantamount to grave abuse of discretion and in excess of its jurisdiction. Said decision, a copy of which is attached to the rollo of G.R. No. 63479,^[13] begins with the statement that it is "an action commenced by plaintiff (Monje) against the defendants for annulment of a deed of sale and the consequent Transfer Certificate of Title No. 9643 covering Lot No. 1 of Plan No. F-100190, Patent No. 16274, covered by Original Certificate of Title No. 1020." Further on, however, the court makes the following findings of fact:

"The surviving heirs above-mentioned, particularly Andrea, Zosimo, Felimon, Anacleto, Rodriguez and Novelita, after an oral extrajudicial partition, voluntarily entered by and among themselves, on September 2, 1962, sold their respective shares in Lot No. 1 by way of absolute sale to herein plaintiff, Macedonio Monje, for a consideration of P1,000.00, with an area of 7,500 square meters, under Doc. No. 48, Page No. 10, No. 5,

Series of 1962 of notary public Ricardo Reyes of Bangaga, Davao Oriental." (Underscoring supplied.)

In its dispositive portion, as quoted above, said decision nullifies the second and third deeds of sale and TCT No. T-9643. It is not disputed, however, that TCT No. T-9643 covers Lot No. 1 with an area of 1.5903 hectares^[14] or more than twice the area sold to Monje. This matter did not escape the attention of this Court when it issued the following resolution of July 29, 1985:^[15]

"Considering the reply of petitioner to respondent's comment on the petition for review on certiorari, the Court resolved to require the respondents to file a REJOINDER to said reply particularly on the alleged basic defects of the decision of the trial court in (a) that it declared the title of the petitioners covering an area of 15,903 square meters as wholly void even if the respondents, in their complaint, placed in litigation only less than one-half of that area, or only an area of 7,500 square meters; and (b) that the trial court awarded the respondents P30,000 in moral damages and P20,000 in actual damages or a total of P50,000 in litigation which involved property allegedly bought by Monje for only P1,000 without any proof on the alleged damages other than an indeterminable and undetermined cause which the trial court vaguely described as not beyond imagination, within ten (10) days from notice hereof."

Counsel for private respondent, however, filed a one-page rejoinder lamely explaining that: (a) he became counsel for private respondent only after the filing of the petition for certiorari in the then Intermediate Appellate Court; (b) the trial court's ruling that petitioners waived their right to present evidence was affirmed not only by the Intermediate Appellate Court but also by this Court, and (c) the award of P50,000 damages was "the conclusion" of Judge Roque M. Barnes and, anyway, he was not yet the counsel for the private respondent then.^[16]

We find that while the principle of *res judicata* is better disregarded if its application would involve the sacrifice of justice to technicality,^[17] to so disregard it now and reopen the case would further delay its disposition. However, the lower court should take note of its erroneous order to deliver to Monje an area larger than what he bought from the heirs of Manguib and claimed in the action he had filed, in the eventual execution of its decision. In the same way that the power of the court in the execution of its judgment extends only over properties belonging to the judgment debtor^[18], the court below may not, in the execution of its decision of August 27, 1981, deliver to Monje the entire area covered by TCT No. T-9643 as it is more than double that of the property he had bought.

This patent error might not have been noticed by this Court in the first petition for certiorari (G.R No. 61423) because petitioners merely emphasized therein the lower court's alleged abuse of discretion in deciding the case without giving them a chance to be heard. In the petition for annulment of the August 27, 1981 decision of the lower court before the Intermediate Appellate Court, petitioners also underscored the facts that (1) they did not have their day in court and (2) the sale to Monje was invalid for lack of the required approval of the proper government authority regarding cultural minorities. It was not surprising, therefore, that the appellate court dismissed the petition as it was just a litigation of the same issues all over again.

With regard to the award of P50,000 damages to Monje, the lower court justified it by its finding that Monje had been in possession of the land he bought since "the consummation of the sale" and that he constructed a house thereon worth P30,000. To the lower court, the second and third sales of the same property to Carolina Balanay and to the Antonio spouses were entered into in bad faith as these "unwarranted acts" threatened the right of Monje over the property and impelled him to file the action for annulment of the deeds of sale and TCT No. T-9643 which action "lasted for fourteen (14) years at great expense." It concluded that the "anguish and anxiety suffered and experienced by the plaintiff is not beyond imagination."^[19] The phrase "not beyond imagination" notwithstanding, we hold that there is a basis for the award of damages and, therefore, the Court sees no reason to disturb it.

WHEREFORE, the instant petition is hereby DENIED and the October 2, 1984 decision of the then Intermediate Appellate Court is hereby AFFIRMED. The lower court is reminded to exercise extreme caution in the execution of its decision of August 27, 1981 which should be in line with the discussion above on the limits of the properties claimed by both parties. This decision is immediately executory.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Melo, JJ., concur.

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- [1] Rollo of G.R. No. 61423, "Avelyn B. Antonio and Conrado Antonio v. Hon. Roque Barnes and Macedonio Monje," p. 5.
- [2] Rollo of G.R. No. 63479, "Avelyn B. Antonio and Conrado Antonio v. Intermediate Appellate Court and Macedonio Monje," p. 6. No copy of the decision of October 12, 1982 can be found in any of the rollos pertinent to this case.
- [3] Penned by Justice Vicente Mendoza & concurred in by Justices Serafin R. Cuevas and Luis A. Javellana.
- [4] Rollo of G.R. No. 63479, p. 20.
- [5] Rollo of G.R. No. 63479, "Avelyn B. Antonio, et al. v. Intermediate Appellate Court, et al.," p. 23.
- [6] Penned by Justice Lino M. Patajo and concurred in by Justices Simeon M. Gopengco, Jose F. Racela, Jr. and Fidel P. Purisima.
- [7] Vda. de Suan v. Unson, G.R. No. 30716, May 18, 1990, 185 SCRA 437; Orata v. Intermediate Appellate Court, G.R. No. 73471, May 8, 1990, 185 SCRA 148.
- [8] Delgado v. Republic, G.R. No. 45351, Aug. 15, 1988, 164 SCRA 347.
- [9] Rollo in G.R. No. 63479, p. 19.
- [10] Reyes v. Camilon, G.R. No. 46198, December 20, 1990, 192 SCRA 445.
- [11] Sociedad Europea de Financiacion, S.A. v. Court of Appeals, G.R. No. 75787, January 2, 1991, 193 SCRA 105.
- [12] Valdez v. Court of Appeals, G.R. No. 85082, February 25, 1991, 194 SCRA 360.
- [13] Page 13 thereof.
- [14] Rollo of AC-G.R. SP No. 02352 attached to the Rollo of G.R. No. 69696, p. 6.
- [15] Rollo, p. 84-a.
- [16] Ibid., p. 87.
- [17] Consolidated Bank and Trust Corporation v. Court of Appeals, G.R. No. 78771, January 23, 1991, 193 SCRA 158.
- [18] Consolidated Bank and Trust Corporation v. Court of Appeals, G.R. No. 78771, January 23, 1991, 193 SCRA 158.
- [19] Rollo in G.R. No. 63479, pp. 13 to 17.

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