

**ISLAMIC DA'WAH COUNCIL OF THE PHILIPPINES,  
PETITIONER, VS. HONORABLE COURT OF APPEALS AND THE HEIRS  
OF JESUS AMADO ARANETA, RESPONDENTS.**

*G.R. No. 80892. September 29, 1989*

Ponente: CORTES, J.

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**CORTES, J.:**

Petitioner impugns the resolutions of the Court of Appeals dated November 10 and December 2 and 3, 1987 which, in effect, gave due course to private respondents' petition for annulment of judgment.

The antecedents of this case are as follows:

On February 15, 1984 Freddie and Marconi Da Silva, as mortgagors, and Islamic Da'Wah Council of the Philippines (Council for brevity), as mortgagee, executed a real estate mortgage over a 4,754 sq.m. parcel of land located in Cubao, Quezon City and covered by Transfer Certificate of Title (TCT) No. 30461 as security for the payment of a one million peso promissory note in favor of the mortgagee. The mortgagors were unable to pay their obligation, hence, the Council instituted foreclosure proceedings with the Regional Trial Court, docketed as Civil Case No. Q-43746. On February 5, 1985 the parties submitted a compromise agreement wherein it was stipulated that because of the Da Silvas' inability to pay their debt to the Council, and for the additional consideration of P500,000.00; they jointly agree to cede, transfer and convey to the Council the land they mortgaged to the latter. On February 12, 1985, the Regional Trial Court approved the compromise agreement. Thereafter, TCT No. 328021 was issued in the name of the Council by the Register of Deeds of Quezon City.

Subsequent thereto, on August 8, 1985, Jesus Amado Araneta filed with the Register of Deeds a notice of lis pendens in connection with Civil Case No. Q-47989 entitled "Islamic Da'Wah Council of the Philippines v. Jesus Amado Araneta" for ejectment. The complaint was converted into an action for collection of rentals with damages but was later on withdrawn by the Council. On August 13, 1985 Araneta also filed with the same Register of Deeds an affidavit of adverse claim in connection with Civil Case No. Q-43469 entitled "Marconi Da Silva, et al. v. Jesus Amado Araneta, et al." for recovery of possession. The notice of lis pendens and adverse claim were annotated at the back of TCT No. 328021 by the Register of Deeds.

On October 9, 1985 the Council filed in the Regional Trial Court of Quezon City a complaint for Quieting of Title, Recovery of Possession and Damages with Preliminary Mandatory Injunction against Araneta praying, inter alia, for the cancellation of all the annotations at the back of TCT No. 328021. The case is docketed as Civil Case No. Q-46196.

While this case was pending, on July 6, 1987, the heirs of Jesus Amado Araneta, private respondents herein, filed with the Court of Appeals a petition to annul the judgment in Civil Case No. Q-43746 for foreclosure. In support of their petition the heirs of Araneta narrated the following events:

(1) on December 20, 1953 Jesus Amado Araneta purchased the 4,754 sq.m. parcel of land located in Cubao from

the Spouses Garcia and since then he and his family have always been in possession thereof;

(2) for some reason known only to Araneta and Fred Da Silva, an employee of the former, title to the property was placed in the latter's name as evidenced by TCT No. 30461 although from the time of its issuance the owner's duplicate copy of said TCT has always been in the possession of Araneta;

(3) on January 31, 1963, the parties decided to terminate the trust that had been created over the property, thus, Da Silva executed a deed of sale over the same parcel of land in favor of Araneta but no consideration was given by the latter to the former for said sale and any recital consideration appearing in the deed is purely fictitious;

(4) the Register of Deeds, however, refused to register the deed of sale because the title is in the name of "Fred Da Silva married to Leocadia Da Silva" and is thus presumed conjugal and the conjugal partnership should first be liquidated as the wife had already died;

(5) alleging that their copy was lost and/or destroyed, on February 1, 1984 Freddie and Marconi Da Silva, two of the three surviving children of Fred Da Silva who died in 1963, filed a petition, docketed as LRC record Case No. Q-2772, for the issuance of a new copy of the owner's duplicate copy of TCT No. 30461. The petition was granted by Judge Vera on March 24, 1984;

(6) Araneta learned about this and immediately filed a motion to re-open the proceedings stating that he has in his possession the owner's duplicate copy of TCT No. 30461 and explaining the reasons for such possession;

(7) the motion was granted and on December 7, 1984 the land registration court ordered the Da Silvas to (a) return to the Register of Deeds the second owner's duplicate copy of the title and (b) neither enter into any transaction concerning said second owner's duplicate copy nor utilize the title for any purpose other than to return the same to the Register of Deeds;

(8) on November 11, 1985, the Da Silvas manifested before the land registration court that the title to the property was transferred to the Council based on a compromise agreement in Civil Case No. Q-43746 for foreclosure; and,

(9) on motion of the heirs of Araneta, who substituted him upon his death in 1985, Judge Vera consolidated Civil Cases Nos. Q-2772 and Q-43469, both of which were raffled to his sala, with Civil Case No. Q-46196 but the judge hearing the latter case would not heed the order of consolidation.

and then set out their case for annulment of judgment alleging that the Da Silvas, with the connivance of the Council, executed a purported promissory note secured by a real state mortgage the terms and conditions of which were made very onerous as to pave the way for the foreclosure of the property by virtue of a confession of judgment; and, the Council had always known of the Araneta's claim of ownership over the land because the former's executive officer and secretary general is the lawyer of the Da Silvas in the cases they filed against the Aranetas. The heirs of Araneta in their petition prayed, inter alia, that (1) the judgment in Civil Case No. Q-43746 be annulled and set aside and (2) a restraining order be issued to enjoin the proceedings in Civil Case No. Q-46196 [Petition, Annex "A".]

In a resolution dated November 10, 1987 the Court of Appeals issued a temporary restraining order enjoining the trial judge from hearing Civil Case No. Q-46196 until further orders from the court. In the same resolution the parties were ordered to appear for a pre-trial conference. The Council filed a motion for reconsideration of this resolution. Later on the Council filed a Supplement to Motion for Reconsideration with Motion to Dismiss questioning the Court of Appeals' jurisdiction to hear the petition for annulment of a judgment that had already been fully executed. The Council also invoked the additional grounds of lack of cause of action because the Aranetas are not valid claimants of the property; lack of legal capacity to sue because the Aranetas were not

parties to the foreclosure case; *litis pendentia* because of the pendency of the quieting of title case between the same parties; and, abandonment, waiver and unenforceability under the Statute of Frauds [Petition, Annex "H".] On December 2, 1987 the Court of Appeals denied the Council's motion for reconsideration for lack of merit. In the hearing conducted on December 3, 1987 the Council reiterated the grounds it raised in its Supplemental Motion and Motion to Dismiss but the same were summarily denied by the Court of Appeals. Hence, this petition for certiorari.

Petitioner contends the following: first, that the Court of Appeals should not continue to hear the petition for annulment of judgment since it is already fully executed and the purpose for which the case for annulment was filed will no longer be served, the parties having already complied with the decision; second, private respondents have no right to question the validity or legality of the decision rendered foreclosing the mortgage since they are foreign to the transaction of mortgage between petitioner and Freddie and Marconi Da Silva; lastly petitioner claims that private respondents have another remedy in law and that is in Civil Case No. Q-46196 for Quieting of Title where the question of ownership may be passed upon.

At the outset it must be clarified that the instant petition is one for certiorari under Rule 65 of the Rules of Court. Thus, the inquiry this Court should address itself is limited to error of jurisdiction or grave abuse of discretion committed by the Court of Appeals, in particular, whether or not respondent court acted without jurisdiction or with grave abuse of discretion in giving due course to the petition for annulment of judgment. This clarification is rendered necessary because the parties themselves, in their pleadings, have gone beyond this issue and have discussed the merits of the annulment of judgment case now pending decision with the Court of Appeals.

In its Petition, the Council contends that a Regional Trial Court has the authority and jurisdiction to annul a judgment of another Regional Trial Court, a coordinate or co-equal court. Specifically, petitioner alleges that the filing of a separate action for annulment of judgment is unnecessary because the Regional Trial Court hearing Civil Case No. Q-43469 for Quieting of Title can annul the judgment in Civil Case No. Q-43746 for Foreclosure rendered by another Regional Trial Court [Rollo, pp. 15-16.] In its Memorandum, however, the Council admitted that the Court of Appeals has the exclusive jurisdiction to annul the decision of the Regional Trial Court [Rollo, pp. 152-153.]

Annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The judgment may be annulled on the ground of extrinsic or collateral fraud [Canlas v. Hon. Court of Appeals, G.R. No. 77691, August 8, 1988.] Jurisdiction over actions for annulment of Regional Trial Court judgment has been clarified by Batas Pambansa Blg. 129 (otherwise known as The Judiciary Reorganization Act of 1980). Prior to the enactment of this law, different views had been entertained regarding the issue of whether or not a branch of a Regional Trial Court may annul a judgment of another branch of the same court.\* However, Batas Pambansa Blg. 129 introduced a new provision conferring on the Court of Appeals exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts. Sec. 9 (2) of Batas Pambansa Blg. 129 expressly provides that:

Sec. 9. Jurisdiction. - The Court of Appeals shall exercise:

\* \* \*

(2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts;

\* \* \*

Thus, it is beyond dispute that it is only the Court of Appeals that can take cognizance of the annulment of judgment in Civil Case No. Q-43746 rendered by the Regional Trial Court.

The next issue raised in this petition deals with the question of who may properly institute a petition for annulment of judgment. It is petitioner's contention that the remedy is available only to one who is a party to the case where the judgment sought to be annulled is rendered. Private respondents, on the other hand, allege that "there are sufficient facts and circumstances sufficient to show prima facie that [they] have a substantial interest in the ownership of the property which had been foreclosed without their knowledge and consent" [Rollo, p. 90.] In fine, the question deals with whether or not the heirs of Araneta have a cause of action against the Council.

In *Militante v. Edrosolano* [G.R. No. L-27940, June 10, 1971, 39 SCRA 473], an action for annulment of judgment in Civil Case No. 6216 between Edrosolano and Belosillo was filed by Militante. The petition stemmed from a complaint instituted by Militante on September 6, 1965 against Edrosolano for damages arising from a breach of contract of carriage. On January 18, 1966 Militante obtained an order of preliminary attachment on the property of Edrosolano. Alleging that he purchased all of Edrosolano's TPU equipment on February 28, 1966, Belosillo filed a third-party claim. It appears that on February 25, 1963 Belosillo obtained a judgment by default against Edrosolano in Civil Case No. 6216 for collection of the amount of P45,000.00, the value of the promissory note executed by the latter on February 1, 1960. After a recital of these antecedent facts, Militante, in his petition for annulment of judgment contended, inter alia, that (1) Civil Case No. 6216 "was based on a fictitious cause of action because [the] promissory note was without lawful consideration whatsoever" [at 476]; (2) Edrosolano did not file any answer to Belosillo's complaint and allowed the latter to obtain a judgment by default which judgment attained finality without the former appealing therefrom; and, (3) while judgment in Civil Case No. 6216 was promulgated in 1963 it was "only on January 19, 1966 when . . . Belosillo caused the execution thereof after [Militante] had already instituted his civil case for damages against . . . Edrosolano and an order for issuance of preliminary attachment issued" [at 477.] The trial court however dismissed Militante's action for annulment on finding that it did not state a cause of action. Thereafter, Militante filed an appeal to this Tribunal and in setting aside the trial court's order of dismissal, the Court, speaking through then Mr. Associate Justice Enrique Fernando, stated that:

\* \* \*

2. More specifically, the view entertained by the lower court in its order of dismissal that an action for annulment of judgment can be availed of only by those principally or secondarily bound is contrary to what had been so clearly declared by this Court in the leading case of *Anuran v. Aquino* [38 Phil. 29], decided in 1918. It was emphatically announced therein: "There can be no question as to the right of any person adversely affected by a judgment to maintain an action to enjoin its enforcement and to have it declared a nullity on the ground of fraud and collusion practiced in the very matter of obtaining the judgment when such fraud is extrinsic or collateral to the matters involved in the issues raised at the trial which resulted in such judgment. \* \* \*." [at 32-33.] Such a principle was further fortified by an observation made by this Court through Justice Ozaeta in *Garchitorena v. Sotelo* [74 Phil. 25 (1942).] These are his words: "The collusive conduct of the parties in the foreclosure suit constituted an extrinsic or collateral fraud by reason of which the judgment rendered therein may be annulled in this separate action [citing also the case of *Anuran*.] Aside from the *Anuran-Aquino* case, innumerable authorities from other jurisdictions may be cited in support of the annulment. But were there not any precedent to guide us, reason and justice would compel us to lay down such doctrine for the first time." [at 481-482; Underscoring supplied.]

It is therefore clear from the foregoing that a person need not be a party to the judgment sought to be annulled. What is essential is that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and he would be adversely affected thereby.

In this present case it is true that the heirs of Araneta are not parties to the foreclosure case. Neither are they principally nor secondarily bound by the judgment rendered therein. However, in their petition filed with the

Court of Appeals they alleged fraud and connivance perpetuated by and between the Da Silvas and the Council as would adversely affect them. This allegation, if fully substantiated by preponderance of evidence, could be the basis for the annulment of Civil Case No. Q-43476.

Finally, the Council asserts that the remedy of annulment of judgment applies only to final and executory judgment and not to that which had already been fully executed or implemented. It is the Council's contention that as the judgment in the foreclosure case had already been executed evidenced by the fact that title to the property in question had been transferred in its name the judgment can no longer be annulled. The Council's contention is devoid of merit. In *Garchitorena v. Sotelo*, supra, the Court affirmed the trial court's annulment of the judgment on foreclosure notwithstanding the fact that ownership of the house and lot subject of the mortgage had passed from the mortgagee who foreclosed the mortgage and purchased the property at public auction to a person who bought the same and finally to another individual in whose name the Torrens certificate of title stood by the time the case reached this Tribunal.

In view of the foregoing the Court finds that the Court of Appeals neither acted without jurisdiction nor committed grave abuse of discretion in giving due course to the petition for annulment of judgment as would warrant the issuance of the extraordinary writ of certiorari in this case.

WHEREFORE, the instant petition is DISMISSED and the orders of the Court of Appeals dated November 10 and December 2 and 3, 1987 are AFFIRMED.

**SO ORDERED.**

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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\* In *Republic v. Reyes* [G.R. Nos. L-30263-5, October 30, 1987, 155 SCRA 313 citing *Cabigo v. Del Rosario*, 44 Phil. 84 (1949); *PNB v. Javellana*, 92 Phil. 525 (1952); *Mas v. Dumaraog*, G.R. No. L-16252, September 29, 1964, 12 SCRA 34; and *Parco v. Court of Appeals*, G.R. No. L-33152, January 30, 1982, 111 SCRA 262], the Court held that the various branches of the Regional Trial Court being co-equal cannot interfere with the respective cases of each branch, much less a branch's order or judgment. In *Republic v. Court of Appeals* [G.R. Nos. L-41115-6, September 11, 1982, 116 SCRA 505 citing *Dulap v. Court of Appeals*, G.R. No. L-28306, December 18, 1971, 42 SCRA 537; and *Gianan v. Imperial*, G.R. No. L-37963, February 28, 1974, 55 SCRA 755], the Court held that a court or a branch thereof has authority or jurisdiction to annul a judgment rendered by another court of concurrent jurisdiction or by another branch.

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