

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **04 December 2019** which reads as follows:

**“G.R. No. 240071 (Heirs of Jacinto Roque, namely: Janet Roque Arevalo, Jose L. Roque, Adela M. Roque, Juliet Roque; Grecelda L. Roque; Louie Lee Roque, Viena Roque Brett, Florencio L. Roque vs. Court of Appeals (Mindanao Station, Cagayan de Oro City) Regional Trial Court Branch 1 of Iligan City represented by Judge Ali M. Balindong as Acting Presiding Judge, Spouses Victor and Christina Princess Jaraba).**

— This Petition for Review filed by Janet Roque Arevalo, Josefer L. Roque, Sebastian Roque, Juliet Roque, Grecelda L. Roque, Louie Lee Roque, Viena Roque Brett and Florencio L. Roque (petitioners) under Rule 45 of the 1997 Rules of Civil Procedure seek to annul and set aside the February 23, 2018 Decision<sup>1</sup> of the Court of Appeals (CA) – Cagayan de Oro City in CA G.R. SP No. 08563-MIN, dismissing the Petition for Annulment of Judgment they filed, thus:

“ACCORDINGLY, the Petition for Annulment of Judgment is DISMISSED.

SO ORDERED.”<sup>2</sup>

The case arose out of a complaint<sup>3</sup> for recovery of possession and ownership filed by respondents Spouses Victor and Cristina Princess Jaraba (Sps. Jaraba) against Josefina Roque (Josefina), Reynaldo Roque, Pia Roque and Arlene Roque before the Regional Trial Court (RTC) of Lanao Del Norte, Branch 1. Involved is a parcel of land located in Tominobo, Camague, Iligan City and covered by Transfer Certificate of Title No. T-59,408 (a.f.)<sup>4</sup> under the name of respondent Victor B. Jaraba. The subject land is particularly described as Lot 1695-A, Psd-10-037756, being a portion

<sup>1</sup> Penned by Associate Justice Tita Marilyn Payoyo-Villordon and concurred in by Associate Justices Romulo V. Borja and Ruben Reynaldo G. Roxas; *rollo*, pp. 58-62.

<sup>2</sup> Id. at 61.

<sup>3</sup> Id. at 45-50.

<sup>4</sup> Id. at 52.

of Lot 1695, Cad-292, Illigan Cadastre.

According to Spouses Jaraba, they are the true and lawful owners of the subject parcel of land having acquired the same from Dominga Badelles Jaraba whose right over the same was based on the Extrajudicial Settlement, which has been previously confirmed by the Court. As current owners, Spouses Jaraba have been paying the realty taxes<sup>5</sup> thereon.

However, the respondents (defendants below) possessed the land covered by Spouses Jaraba's title. They alleged that they are the owners of the subject land by virtue of the "Contract of Exchange of Lots with Consideration" dated June 30, 1977. Hence, they have been in possession of the same since 1997 in the concept of an owner.

On August 5, 2015, the RTC rendered a Decision<sup>6</sup> finding that the defendants' occupation and possession of the subject land is without basis as the Contract of Exchange which the petitioners were relying on referred to Lot No. 1695-B and not the subject land which is Lot No. 1695-A. Thus, not only was their occupation not valid, but defendants also failed to show any evidence of ownership to counter the certificate of title which Spouses Jaraba have. The dispositive portion of the decision reads:

WHEREFORE, based on the foregoing, judgment is hereby rendered, directing the [petitioners] to:

1. Vacate and surrender possession, peacefully, the property covered by Transfer Certificate of Title No. T-59,408 (a.f.) to the [Respondent]
2. Pay the sum of Ten Thousand Pesos (P10,000.00) as moral damages; and
3. Pay the sum of Ten Thousand Pesos (P10,000.00) as attorney's fees.

SO ORDERED.<sup>7</sup>

Aggrieved by the Decision, herein petitioners elevated the case to the CA as heirs of Jacinto S. Roque praying that the judgment rendered by the RTC in Civil Case No. 7303 be nullified on the ground that they were not impleaded as party defendants, despite their being co-heirs of the subject land. As it turns out, respondent Josefina is their mother and the other defendants below are their siblings. Petitioners insist that they, too, were in actual possession of the subject property and yet, they were not impleaded as indispensable parties which thus, renders the whole proceeding and the judgment of the RTC invalid.

As stated at the outset, the CA dismissed their petition.

<sup>5</sup> Id. at 54-55.

<sup>6</sup> Id. at 41-44.

<sup>7</sup> Id. at 43.

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Hence, petitioners are now before the Court challenging the CA for dismissing their petition with this lone issue:

WHETHER OR NOT THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR ANNULMENT OF JUDGMENT MOTU PROPRIO AND IN AFFIRMING THE VALIDITY OF THE QUESTIONED JUDGMENT EVEN AS PETITIONERS BEING INDISPENSABLE PARTIES WERE NOT IMPLEADED<sup>8</sup>

The petition lacks merit.

The remedy of annulment of judgment of the trial court, while has been long authorized and sanctioned in the Philippines, recognizes only two (2) grounds. One is extrinsic or collateral fraud, and the other is lack of jurisdiction.

In *Capacete v. Baroro*, the Court held:

“Extrinsic or collateral fraud refers to that which prevented the aggrieved party from having a trial or presenting his case to the court, or used to procure the judgment without fair submission of the controversy.<sup>9</sup> “Lack of jurisdiction refers to either lack of jurisdiction over the person of the defending party or over the subject matter of the claim, since in either case, the judgment or final order and resolution are void.”<sup>10</sup>

“If based on extrinsic fraud, a party must file the petition within four (4) years from its discovery, and if based on lack of jurisdiction, before laches or estoppel bars the petition.”<sup>11</sup> If based on lack of jurisdiction, on the other hand, due process dictates that there should also be jurisdiction over the persons of indispensable parties which a court must acquire before it can validly pronounce judgments personal to said defendants.<sup>12</sup>

Pursuant to jurisprudence,<sup>13</sup> an indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties that his legal presence as a party to the proceeding is an absolute necessity. In his absence, there cannot be a resolution of the dispute of the parties before the court which is effective, complete or equitable.<sup>14</sup>

In this case, however, it should be noted that the family of the

<sup>8</sup> Id. at 19.

<sup>9</sup> *Capacete v. Baroro*, 453 Phil. 392, 401 (2003).

<sup>10</sup> Id. at 401.

<sup>11</sup> *Cerezo v. Tuazon*, 469 Phil. 1020, 1040 (2004).

<sup>12</sup> *Arcelona v. CA*, 345 Phil. 250, 267 (1997).

<sup>13</sup> *Heirs of Faustino Mesina and Genoveva Mesina v. Heirs of Domingo Fian, Sr.*, 708 Phil. 327, 334 (2013).

<sup>14</sup> *Boston Equity Resources, Inc. v. CA*, 711 Phil. 451, 469 (2013).

petitioners reside on the subject property. Hence, it is unfathomable how petitioners could now claim that they were deprived of due process when they were not impleaded by the respondents in their complaint as they would have easily known about the ongoing litigation which their mother and other siblings had been attending to since they all reside on the subject property. In fact, petitioners even pointed out that one of their siblings who resided at the same house erected on the subject property and who was not also impleaded as a party, had passed away during the pendency of the case and the family even had his wake thereat.<sup>15</sup>

A petition for annulment of judgment is a remedy of equity that can only be availed of where the ordinary remedies are wanting or no longer available through no fault of the petitioner.<sup>16</sup> It is only granted under exceptional circumstances and not intended as a substitute for a party's own neglect in not promptly availing of the other ordinary and appropriate remedies.<sup>17</sup> Sadly, in this case, petitioners did not even avail of the remedy of intervention during the early stage of the proceedings at the RTC in order to assert their alleged rights over the property.

Further, given that the defendants below relied on the "Contract of Exchange of Lots with Consideration" dated June 30, 1977 as the basis of their alleged ownership of the subject property, even the inclusion as parties of herein petitioners to the litigation would not have altered the findings of the RTC that it was Lot No. 1695-B which was being referred to in the Contract of Exchange, and not Lot No. 1695-A which the respondents own by virtue of Torrens Title which is indefeasible under our laws.

Verily, with the absence of extrinsic fraud in this case, and considering that jurisdiction was duly acquired over the persons of the defendants below, the annulment of judgment being prayed for by the petitioners has no leg to stand on.

As the CA stated:

"The failure of private respondents or the RTC to implead petitioners as additional party-defendants in Civil Case No. 7303, whether as co-heirs or not, would not nullify the judgment rendered therein based on lack of jurisdiction."<sup>18</sup>

**IN VIEW WHEREOF**, the Decision dated February 23, 2018 of the Court of Appeals in CA-G.R. SP No. 08563-MIN and its Resolution dated May 8, 2018 denying the petitioners' Motion for Reconsideration are hereby **AFFIRMED**.

<sup>15</sup> Rollo, p. 19.

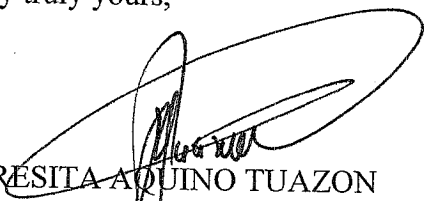
<sup>16</sup> *Dare Adventure Farm Corp. v. CA, et al.* 695 Phil. 681, 691 (2012).

<sup>17</sup> *Lazaro v. Rural Bank of Francisco Balagtas, Inc.*, 456 Phil. 414, 422 (2003).

<sup>18</sup> Rollo, p. 61.

**SO ORDERED.”** (Bernabe, J., on official business; Zalameda, J., on official leave)

Very truly yours,

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *utk 12/26*  
27 DEC 2019

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 1  
Iligan City  
(Civil Case No. 7303)

COURT OF APPEALS (reg)  
Cagayan de Oro City  
CA-G.R. SP No. 08563-MIN

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