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**SUPREME COURT  
FIRST DIVISION**

**CRESENCIANO C. BOBIS, BONIFACIO  
CONSULTA, GIMENO BUARA,  
PORFERIO BUENO, MELCHOR  
CODORNIZ, SPOUSES ROLANDO  
BOLA and AVELINA V. BOLA and JOSE  
SATUITO,**

*Petitioners,*

*-versus-*

**G.R. No. 113796  
December 14, 2000**

**COURT OF APPEALS, HON.  
GERONIMO R. SAN JOSE, JR.,  
Presiding Judge, Regional Trial Court  
of Tabaco, Albay, Branch 18, ADRIAN  
AZUPARDO, Deputy Sheriff, Regional  
Trial Court of Tabaco, Albay, Branch 18,  
and the HEIRS OF JULIAN  
BRITANICO, namely: REYNALDO  
BRITANICO, YOLANDA BRITANICO-  
BACLAO, OLIVA BRITANICO-  
BONGALOS, HERMENINA BRITANICO  
BARBACENA, JOVENTINO  
BRITANICO, ELIZABETH BRITANICO,  
ARTURO BRITANICO and JULIANA  
BRITANICO,**

*Respondents.*

X-----X

## DECISION

**YNARES-SANTIAGO, J.:**

This is a Petition for Review on *Certiorari* assailing the Decision of the Court of Appeals<sup>[1]</sup> in CA-G.R. SP No. 29845, dated December 15, 1993, which dismissed the petition filed by herein petitioners, seeking to annul the October 19, 1989 Decision,<sup>[2]</sup> of the Regional Trial Court of Tabaco, Albay, Branch 18,<sup>[3]</sup> in Civil Case No. T-417.

The resolution of the instant controversy hinges on whether or not extrinsic fraud vitiated the decision of the court a quo in Civil Case No. T-417, thus warranting annulment thereof.

On December 20, 1977, Julian Britanico, private respondents' predecessor-in-interest, filed against Benjamin Bolivar, Juanito Bataller, Nicolas Breva, Eugenio Avila, and Eduardo Bueno, a complaint for quieting of title with prayer for the issuance of a writ of preliminary injunction,<sup>[4]</sup> docketed as Civil Case No. T-417. The subject of the controversy is a land situated in Barrio Bangkilingan, Tabaco, Albay, and particularly described as follows:

A parcel of land, part of Lot No. 1399, situated in the Barrio of Bangkilingan, Tabaco, Albay, with an area of ONE THOUSAND TWELVE (1,012) Square meters, more or less; bounded on the N. and W. by Gervacio Britanico; on the E. by Artemio Vosetres; and on the S. by Fortunato Breva. Monumented by BL concrete posts except on the E. and S. where there are no visible boundaries. Declared as part of Tax No. 1855 and of its assessed value of P120.00.<sup>[5]</sup>

In the proceedings before the trial court, the defendants repeatedly failed to appear at the scheduled hearings. Finally, defendants Benjamin Bolivar and Eugenio Avila, through counsel, manifested that they are no longer claiming any interest in the subject land.<sup>[6]</sup> Consequently, the court a quo granted Julian Britanico's motion to present evidence ex parte.

According to Julian Britanico, private respondents' predecessor-in-interest, he purchased the land from Eusebio, Sofronia, Fortunata, and Fidela, all surnamed Brevia, as evidenced by a deed of sale dated November 13, 1973.<sup>[7]</sup> After acquiring the land, he caused it to be declared in his name and paid the corresponding taxes thereon.

On October 19, 1989, the trial court rendered a decision declaring Julian Britanico as the real and absolute owner of the property in question.

The dispositive portion thereof reads:

WHEREFORE, judgment is hereby issued in favor of plaintiff and against the defendants, declaring the plaintiff the real and absolute owner of the property in question; ordering the defendant to pay plaintiff P2,500.00 as damages for the acts of destruction and depredation on the property, plus P2,000.00 as attorney's fees with costs against the defendants.

SO ORDERED.<sup>[8]</sup>

Meanwhile, plaintiff Julian Britanico died and was substituted by his heirs, herein private respondents.

On May 22, 1980, a writ of execution was issued which was, however, returned unsatisfied with the sheriff's notation that it can only be executed if an order will be issued "to demolish the eight (8) houses constructed on the property in question at the instance of defendant Benjamin Bolivar."<sup>[9]</sup>

On August 14, 1990, private respondents filed a motion for the issuance of a writ of demolition.<sup>[10]</sup> This was opposed<sup>[11]</sup> by petitioners, claiming that they are the owners of the eight (8) houses sought to be demolished; and that the lot on which these houses stand are duly titled in their name, having acquired the same from Eugenia Brevia, Fidela Brevia, and Fortunata Brevia, between the years 1966 to 1981.<sup>[12]</sup> Petitioners contended that the sale of the subject land to Julian Britanico is dubious and spurious. Petitioners further argued that not having been impleaded as parties in Civil Case NO. T-417, the decision rendered therein can not bind them.

On December 4, 1990, the trial court denied private respondents' motion for the issuance of a writ of demolition.<sup>[13]</sup> Aggrieved, private respondents moved for a reconsideration which was granted by the trial court. On June 9, 1992, the trial court ordered the issuance of a writ of demolition.<sup>[14]</sup>

Hence, petitioners filed a petition to annul the decision of the trial court-before the Court of Appeals, claiming that private respondents' predecessor-in-interest employed extrinsic fraud in the trial below, thus, preventing them from ventilating their case.

On December 15, 1993, the Court of Appeals rendered the assailed decision dismissing the petition for annulment of judgment.<sup>[15]</sup>

Unfazed, petitioners come to this Court, contending that:

I.

THE HONORABLE COURT OF APPEALS, FOURTEENTH DIVISION, A QUO ERRED IN UPHOLDING THE DECISION SOUGHT TO BE ANNULLED IN CIVIL CASE NO. T-417, RTC BRANCH XVIII, TABACO, ALBAY, ANNEX "C".

II.

THE HONORABLE COURT OF APPEALS, FOURTEENTH DIVISION, A QUO ERRED IN UPHOLDING THE WRIT OF DEMOLITION, ANNEX "Q".

III.

THE HONORABLE COURT OF APPEALS, FOURTEENTH DIVISION, A QUO ERRED IN UPHOLDING THE DECISION BEING ASSAILED AS IMMUTABLE AND UNALTERABLE.<sup>[16]</sup>

The petition is devoid of merit.

A judgment can be the subject of an action for annulment on two grounds: (a) the judgment is void for want of jurisdiction or lack of

due process of law; or (b) the judgment has been obtained by fraud.<sup>[17]</sup> An action to annul a final judgment on the ground of fraud will lie only if the fraud is extrinsic or collateral in character. It is regarded as extrinsic or collateral where it has prevented a party from having trial or from presenting all of his case to the court.<sup>[18]</sup>

In *Macabingkil vs. People's Homesite and Housing Corporation*,<sup>[19]</sup> the Court held that:

It is only extrinsic or collateral fraud, as distinguished from intrinsic fraud, however, that can serve as a basis for the annulment of judgment. Fraud has been regarded as extrinsic or collateral, within the meaning of the rule, "where it is one the effect of which prevents a party from having a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters pertaining, not to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy." In other words, extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case, by fraud or deception practiced on him by his opponent. This was explained by Justice Miller, thus:

"But there is an admitted exception to this general rule, in cases where, by reason of something done by the successful party to a suit, there was, in fact, no adversary trial or decision of the issue in the case. Where the successful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise, or where the defendant never had knowledge of the suit, being kept in ignorance by the act of the plaintiff; or where an attorney fraudulently without an authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side — these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be

sustained to set aside and annul a former judgment or decree, and open the case for a new and fair hearing See, Wells, Res Adjudicata, sec. 499; Pearce vs. Olney, 20 Conn., 544; Wierich vs. De Zoya, 7 Ill., (2 Gilm.) 385; Kent vs. Richards, 3 Md. Ch., 396; Smith vs. Lowry, 1 Johns. Ch., 320; De Louis vs. Meek, 2 Green (Iowa), 55.

“In all these cases and many others which have been examined, relief has been granted on the ground that, by some fraud practiced directly upon the party seeking relief against the judgment or decree, that party has been prevented from presenting all of this case to the court.”

In the case at bar, a careful review of the pertinent records reveals that petitioners were not able to prove that extrinsic fraud, as defined previously, vitiated the proceedings before the trial court. Petitioners cannot feign ignorance of Civil Case No. T-417; neither can they claim that private respondents’ predecessor-in-interest deliberately kept them unaware of the litigation concerning the disputed property. On the contrary, petitioners themselves admitted that as early as August 19, 1981, they learned of Julian Britanico’s (private respondents’ predecessor-in-interest) claim over the controverted property, as well as the pending litigation concerning the same, when Julian Britanico filed a motion to cite the defendants in Civil Case No. T-417, including petitioners Rolando Bola, Avelina Bola, Porferio P Bueno, and Bonifacio Consulta, in contempt of court.<sup>[20]</sup> But instead of intervening in Civil Case No. T-417, petitioners opted to pursue the titling of their respective lots which they obtained subsequently on November 15, 1990, a date much later than the promulgation of the decision in Civil Case No. T-417.<sup>[21]</sup>

From the foregoing alone, the Court finds no reason to overturn the decision appealed from. The predicament that petitioners brought upon themselves is evidently caused by their own inaction.

Similarly, in Top Management Programs Corporation vs. Court of Appeals,<sup>[22]</sup> the Court denied a petition to annul an order of the trial court, noting that no extrinsic fraud could be ascribed to the conduct of the prevailing party, holding as follows:

Petitioner has not pointed out any act of the prevailing party preventing it from fully ventilating its case. If ever there was any failure in the presentation of its case, the same is caused not by private respondents but by his own inaction. Petitioner was not a party to the case before the lower court, and it did nothing to bring to the court's attention its problem. Hence, the lower court was not obligated to notify the petitioners of its orders.

Having been unable to prove that extrinsic fraud vitiated the orders in question, there lies no cause of action for annulment of said orders.

Then, too, the decision of the trial court cannot be annulled on the basis of petitioners' allegation that the purported deed of sale of the property under scrutiny in favor of private respondents' predecessor-in-interest was dubious and forged, as this kind of fraud, if there is any, is intrinsic, and not an extrinsic fraud which is a ground to annul a judgment or order. In *Strait Times, Inc., vs. Court of Appeals*,<sup>[23]</sup> we emphasized that the use of forged instruments or perjured testimonies during trial is not an extrinsic fraud, because such evidence does not preclude the participation of any part in the proceedings. While a perjured testimony or a forged instrument may prevent a fair and just determination of a case, it does not bar the adverse party from rebutting or opposing the use of such evidence. Extrinsic fraud, to reiterate, pertains to an act committed outside of the trial.

Moreover, petitioners were not denied due process of law which, in essence, is simply an opportunity to be heard.<sup>[24]</sup> The records show that petitioners were given the chance to air their side when they filed an opposition to the writ of demolition sought by private respondents.<sup>[25]</sup> In fact, the prayer of petitioners was favorably acted upon by the trial court when it initially denied the motion for the issuance of a writ of demolition on December 4, 1990. So also, when the said December 4, 1990 order of the court was reconsidered in favor of private respondents, petitioners were again given the chance to advance their case when they interposed a motion for reconsideration.<sup>[26]</sup> Indeed, petitioners cannot claim that they were denied due process. Regardless of the outcome of the motion for

reconsideration, petitioners were afforded due process of law when they were allowed to be heard.

Clearly, petitioners failed to establish that private respondents' predecessor-in-interest committed an act constituting extrinsic fraud that would justify the annulment of the decision of Branch 18, Regional Trial Court of Tabaco, Albay, in Civil Case No. T-417.

**WHEREFORE**, the Decision of the Court of Appeals in CA-G.R. SP. No. 19845, dated December 15, 1993, is **AFFIRMED**. The instant petition for review on certiorari is **DENIED**.

**SO ORDERED.**

**Davide, Jr., C.J., Puno and Kapunan, JJ., concur.  
Pardo, J., took no part.**

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[1] Fourteenth Division, composed of Associate Justices: Angelina S. Gutierrez (ponente), Jaime M. Lantin (Chairman), and Bernardo P. Pardo. (See Rollo, p. 17)

[2] Rollo, pp. 38-39.

[3] Presided by Judge Pedro C. Cruz.

[4] Rollo, pp. 38-39.

[5] Complaint, Rollo, p. 38.

[6] Rollo, pp. 44-45.

[7] Rollo, pp. 79-80.

[8] Rollo, p. 46.

[9] Rollo, p. 51.

[10] Rollo, p. 52.

[11] Rollo, p. 53.

[12] To prove the purported sale, petitioners presented the following —

“a.) Annex ‘S’ Deed of Extra Judicial Settlement and Sale of portion of Lot 1399, dated August 15, 1966, signed by Vicente Breva and Sofronio Breva and thumb marked by Eusebio Breva, Fortunata Preva (sic) and Fidela Breva, concerning Lot 1399 Tabaco Cadastre.

b.) Annex ‘T’ dated January 1975, Deed of Sale of portion of Lot 1399 thumb marked by the Vendor Eusebio Breva in favor of Avelina Vergara Bola.

c.) Annex ‘U’ dated August 30, 1977, Deed of Absolute Sale of part of Lot 1399, thumb marked by Eusebio Breva in favor of Porferio Bueno.

d.) Annex ‘V’ dated September 5, 1979, Deed of Absolute Sale of part of Lot 1399, thumb marked by Fidela Breva in favor of Rolando Bola.

e.) Annex 'W' dated August 14, 1981 Deed of Absolute Sale of part of Lot 1399, thumb marked by Fortunata Brevia in favor of Rolando Bola." (See Rollo, pp. 103-104).

- [13] Rollo, p. 56
- [14] Rollo, p. 66-67.
- [15] Rollo, p. 17.
- [16] Rollo, p. 4.
- [17] 1997 Rules of Civil Procedure, Rule 47, Section 2; Ruiz vs. Court of Appeals, 201 SCRA 577, 583 (1991); citing: Mercado vs. Ubay, 187 SCRA 719 (1990).
- [18] Ruiz, supra, citing: Asian Security and Insurance Company, Inc. vs. Island Steel, Inc., 118 SCRA 233 (1982).
- [19] G.R. No. L-29080, August 17, 1976, 72 SCRA 326, 343-344; citing: Aring vs. Original, 6 SCRA 1021, 1025 (1962); Velasco vs. Velasco, 2 SCRA 736 (1961); 46 Am. Jur. 913; and U.S. vs. Throckmorton, 25 L. ed. 93, 95.
- [20] Comment/Opposition to Plaintiff's Motion for Reconsideration, Rollo, pp. 62-64; See also Order, Rollo, p. 66.
- [21] Order, Rollo, p. 67.
- [22] G.R. No. 102996, 222 SCRA 763, 771 (1993).
- [23] G.R. No. 126673, 294 SCRA 714, 723 (1998); citing Palanca vs. American Food Manufacturing Co., 24 SCRA 819 (1968) and Santos vs. Court of Appeals, 224 SCRA 673 (1993).
- [24] Philippine National Construction Corporation vs. Court of Appeals , G.R. No. 116896, 272 SCRA 183, 196 (1997); citing: Roces vs. Aportadera, 243 SCRA 108, 114 (1995); Vallende vs. NLRC, 245 SCRA 662, 666-667 (1995); Navarro III vs. Damasco, 246 SCRA 260, 265 (1995).
- [25] Rollo, pp. 53-55.
- [26] Motion for Reconsideration and/or to set aside order dated June 9, 1992, Rollo, pp. 68-72.