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**SUPREME COURT  
FIRST DIVISION**

**MODESTA CALIMLIM AND  
LAMBERTO MAGALI IN HIS CAPACITY  
AS ADMINISTRATOR OF THE ESTATE  
OF DOMINGO MAGALI,**

*Petitioner,*

*-versus-*

**G.R. No. L-34362  
November 19, 1982**

**HON. PEDRO A. RAMIREZ IN HIS  
CAPACITY AS PRESIDING JUDGE OF  
THE COURT OF FIRST INSTANCE OF  
PANGASINAN, BRANCH I, and  
FRANCISCO RAMOS,**

*Respondents.*

X-----X

**DECISION**

**VASQUEZ, J.:**

The dismissal of Civil Case No. SCC-180 filed by the herein petitioners in the respondent Court against the private respondent is sought to be annulled and set aside by this Petition For Review On Certiorari.

The antecedent material facts are not disputed. Sometime in 1961, a judgment for a sum of money was rendered in favor of Independent Mercantile Corporation against a certain Manuel Magali by the Municipal Court of Manila in Civil Case No. 85136. After said judgment became final, a writ of execution was issued on July 31, 1961. The Notice of Levy made on September 21, 1961 on a parcel of land covered by Transfer Certificate of Title No. 9138 registered in the name of "Domingo Magali, married to Modesta Calimlim", specified that the said levy was only against "all rights, title, action, interest and participation of the defendant Manuel Magali over the parcel of land described in this title." The Certificate of Sale executed by the Provincial Sheriff of Pangasinan on October 17, 1961 in favor of Independent Mercantile Corporation also stated that the sale referred only to the rights and interest of Manuel Magali over the land described in TCT No. 9138. Manuel Magali is one of the several children of Domingo Magali who had died in 1940 and herein petitioner Modesta Calimlim.

However, when the Sheriff issued the final Deed of Sale on January 26, 1963, it was erroneously stated therein that the sale was with respect to "the parcel of land described in this title" (referring to TCT No. 9138) and not only over the rights and interest of Manuel Magali in the same. The execution of the said final Deed of Sale was annotated at the back of said title.

On February 23, 1967, Independent Mercantile Corporation filed a petition in the respondent Court to compel Manuel Magali to surrender the owner's duplicate of TCT No. 9138 in order that the same may be cancelled and a new one issued in the name of the said corporation. Not being the registered owner and the title not being in his possession, Manuel Magali failed to comply with the order of the Court directing him to surrender the said title. On June 20, 1967, Independent Mercantile Corporation filed an ex-parte petition to declare TCT No. 9138 as cancelled and to issue a new title in its name. The said petition was granted by the respondent Court and in its Order dated July 13, 1967, it directed the issuance of a new certificate of title in the name of the Independent Mercantile Corporation and the cancellation of TCT No. 9138. By virtue of said Order, the Register of Deeds of Pangasinan issued a new title in the name of the corporation, identified as TCT No. 68568.

On November 21, 1967, petitioner Modesta Calimlim, surviving spouse of Domingo Magali, upon learning that her husband's title over the parcel of land had been cancelled, filed a petition with the respondent Court, sitting as a cadastral court, praying for the cancellation of TCT No. 68568. An opposition to the said petition was filed by Independent Mercantile Corporation. After the parties submitted their respective Memoranda, the respondent Court issued an Order dated July 3, 1968 dismissing the petition. (Rollo, pp. 31-38.)

The herein petitioners did not appeal the dismissal of the petition they filed in LRC Record No. 39492 for the cancellation of TCT No. 68568. Instead, on January 11, 1971, they filed the complaint in Civil Case No. SCC-180 praying for the cancellation of the conveyances and sales that had been made with respect to the property covered by TCT No. 9138 previously registered in the name of Domingo Magali, married to Modesta Calimlim. Named as defendant in said civil case was herein private respondent Francisco Ramos who claimed to have bought the property from Independent Mercantile Corporation on July 25, 1967. Private respondent Francisco Ramos, however, failed to obtain a title over the property in his name in view of the existence of an adverse claim annotated on the title thereof at the instance of the herein petitioners.

Private respondent Francisco Ramos filed a Motion To Dismiss Civil Case No. SCC-180 on the ground that the same is barred by prior judgment or by the statute of limitations (Rollo, pp. 42-45). Resolving the said Motion, the respondent Court, in its Order dated April 21, 1971, dismissed Civil Case No. SCC-180 on the ground of estoppel by prior judgment. (Ibid, pp. 10-13.) A Motion For Reconsideration filed by the petitioners was denied by the respondent Judge in his Order of September 2, 1971. (Ibid, pp. 13-15.) A second Motion For Reconsideration was similarly denied in the Order dated September 29, 1971. (Rollo, pp. 16-17.) Hence, this Petition.

We find merit in this appeal.

It is error to consider the dismissal of the petition filed by the herein petitioner in LRC Record No. 39492 for the cancellation of TCT No.

68568 as a bar by prior judgment against the filing of Civil Case No. SCC-180. In order to avail of the defense of res judicata it must be shown, among others, that the judgment in the prior action must have been rendered by a court with the proper jurisdiction to take cognizance of the proceeding in which the prior judgment or order was rendered. If there is lack of jurisdiction over the subject-matter of the suit or of the parties, the judgment or order cannot operate as an adjudication of the controversy. (*2 Moran Comments on the Rules of Court, 1970 Edition, p. 364*). This essential element of the defense of bar by prior judgment or res judicata does not exist in the case presently considered.

The petition filed by the herein petitioners in LRC Record No. 39492 was an apparent invocation of the authority of the respondent Court sitting as a land registration court. Although the said petition did not so state, that reliance was apparently placed on Section 112 of the Land Registration Act. It has been settled by consistent rulings of this Court that a court of first instance, acting as a land registration court, is a court of limited and special jurisdiction. As such, its proceedings are not adequate for the litigation of issues pertaining to an ordinary civil action, such as, questions involving ownership or title to real property. (*Bareng vs. Shintoist Shrine and Japanese Charity Bureau, 83 SCRA 418; Manalo vs. Mariano, 69 SCRA 80; In re: Nicanor T. Santos, 102 SCRA 747; Santos vs. Aquino, 101 SCRA 377*). In *Huchon Sunpongco vs. Heirs of Nicolas Ronquillo, L-27040, December 19, 1970, 36 SCRA 395*, we have held that:

“Section 112 of Act 496 confers authority upon the land registration court to order the cancellation, alteration or amendment of a certificate of title but withdraws from the Court the power to pass upon any question concerning ownership of the registered property, or any incident where the issues involved have become controversial.”

It may hardly be questioned that the issues raised by the petitioners in their petition to cancel TCT No. 68568 refer to the ownership or title over the property covered thereby. The said petition presented before the respondent Court in the exercise of its limited jurisdiction as a cadastral court, the question of who should be considered the true and lawful owner of the parcel of land embraced in said title. The

petitioners alleged therein that they are the true owners of the property, and that TCT No. 68568 which they sought to cancel was issued as a result of the errors which were not of their own making. In short, the petition raised a highly controversial matter which is beyond the judicial competence of a cadastral court to pass upon or to adjudicate.

It may neither be claimed that the parties have mutually agreed to submit the aforesaid issues for the determination by the court, it being a fact that herein private respondent was not a party in the petition in LRC Record No. 39492. Incidentally, although the said petition was filed by the herein petitioners on November 21, 1967, the Opposition filed by Independent Mercantile Corporation to the said petition made no mention of the alleged sale of the property in question in favor of private respondent Francisco Ramos on July 5, 1967. This circumstance places in grave doubt the sincerity of said sale and the claim that the private respondent was an innocent purchaser for value of the property in question.

In the order of the respondent Judge dated September 29, 1971 denying the second motion for reconsideration, he cited the case of *Tijam vs. Sibonghanoy*, 23 SCRA 29, to uphold the view that the petitioners are deemed estopped from questioning the jurisdiction of the respondent Court in having taken cognizance of the petition for cancellation of TCT No. 68568, they being the ones who invoked the jurisdiction of the said Court to grant the affirmative relief prayed for therein. We are of the opinion that the ruling laid down in *Sibonghanoy* may not be applied herein. Neither its factual backdrop nor the philosophy of the doctrine therein expounded fits the case at bar.

A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject-matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were

obviously not contemplated therein. The exceptional circumstance involved in Sibonghanoy which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in Sibonghanoy not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by estoppel.

In Sibonghanoy, the defense of lack of jurisdiction of the court that rendered the questioned ruling was held to be barred by estoppel by laches. It was ruled that the lack of jurisdiction having been raised for the first time in a motion to dismiss filed almost fifteen (15) years after the questioned ruling had been rendered, such a plea may no longer be raised for being barred by laches. As defined in said case, laches is “failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert has abandoned it or declined to assert it.”

The petitioners in the instant case may not be faulted with laches. When they learned that the title to the property owned by them had erroneously and illegally been cancelled and registered in the name of another entity or person who had no right to the same, they filed a petition to cancel the latter’s title. It is unfortunate that in pursuing said remedy, their counsel had to invoke the authority of the respondent Court as a cadastral court, instead of its capacity as a court of general jurisdiction. Their petition to cancel the title in the name of Independent Mercantile Corporation was dismissed upon a finding by the respondent Court that the same was “without merit.” No explanation was given for such dismissal nor why the petition lacked merit. There was no hearing, and the petition was resolved solely on the basis of memoranda filed by the parties which do not appear of record. It is even a possibility that such dismissal was in view of the realization of the respondent Court that, sitting as a cadastral court, it lacked the authority to entertain the petition involving as it does a highly controversial issue. Upon such petition being dismissed, the petitioners instituted Civil Case No. SCC-180 on January 1, 1971, or only two and one-half years after the dismissal of

their petition in LRC Record No. 39492. Hence, we see no unreasonable delay in the assertion by the petitioners of their right to claim the property which rightfully belongs to them. They can hardly be presumed to have abandoned or waived such right by inaction within an unreasonable length of time or inexcusable negligence. In short, their filing of Civil Case No. SCC-180 which in itself is an implied non-acceptance of the validity of the proceedings had in LRC Record No. 39492 may not be deemed barred by estoppel by laches.

It is neither fair nor legal to bind a party by the result of a suit or proceeding which was taken cognizance of in a court which lacks jurisdiction over the same irrespective of the attendant circumstances. The equitable defense of estoppel requires knowledge or consciousness of the facts upon which it is based. The same thing is true with estoppel by conduct which may be asserted only when it is shown, among others, that the representation must have been made with knowledge of the facts and that the party to whom it was made is ignorant of the truth of the matter. (*De Castro vs. Gineta, 27 SCRA 623*). The filing of an action or suit in a court that does not possess jurisdiction to entertain the same may not be presumed to be deliberate and intended to secure a ruling which could later be annulled if not favorable to the party who filed such suit or proceeding. Instituting such an action is not a one-sided affair. It can just as well be prejudicial to the one who filed the action or suit in the event that he obtains a favorable judgment therein which could also be attacked for having been rendered without jurisdiction. The determination of the correct jurisdiction of a court is not a simple matter. It can raise highly debatable issues of such importance that the highest tribunal of the land is given the exclusive appellate jurisdiction to entertain the same. The point simply is that when a party commits error in filing his suit or proceeding in a court that lacks jurisdiction to take cognizance of the same, such act may not at once be deemed sufficient basis of estoppel. It could have been the result of an honest mistake, or of divergent interpretations of doubtful legal provisions. If any fault is to be imputed to a party taking such course of action, part of the blame should be placed on the court which shall entertain the suit, thereby lulling the parties into believing that they pursued their remedies in the correct forum. Under the rules, it is the duty of the court to dismiss an action “whenever it appears that the court has no jurisdiction over the

subject matter.” (*Sec. 2, Rule 9, Rules of Court*). Should the court render a judgment without jurisdiction, such judgment may be impeached or annulled for lack of jurisdiction (*Sec. 30, Rule 132, Ibid.*), within ten (10) years from the finality of the same. (*Art. 1144, par. 3, Civil Code*).

The inequity of barring the petitioners from vindicating their right over their property in Civil Case No. SCC-180 is rendered more acute in the face of the undisputed fact that the property in question admittedly belonged to the petitioners, and that the title in the name of the private respondent was the result of an error committed by the Provincial Sheriff in issuing the deed of sale in the execution proceeding. The justness of the relief sought by herein petitioners may not be ignored or rendered futile by reason of a doctrine which is of highly doubtful applicability herein.

**WHEREFORE**, the Orders appealed from are hereby **REVERSED** and **SET ASIDE**. The Motion To Dismiss filed by the private respondent in Civil Case No. SCC-180 shall be deemed denied and the respondent Court is ordered to conduct further proceedings in the case. With costs against the private respondent.

**SO ORDERED.**

**Teehankee, Melencio-Herrera, Plana, Relova and Gutierrez, Jr., JJ., concur.**