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it that the factual findings set out in the resolution of September 12, 1978, now subject of appeal, are entirely correct and adequately demonstrated by preponderance of evidence.

WHEREFORE, the appealed Resolution of the Court of Appeals of September 12, 1978 is affirmed *in toto*. Costs against petitioners.

SO ORDERED.

Yap (Chairman), Cruz, Paras, and *Feliciano, JJ.,* concur.

Melencio-Herrera, J., took no part.

SECOND DIVISION

[G.R. No. 51983. September 24, 1986]

ADORACION VALERA BRINGAS, in her capacity as Administratrix of the Estate of Francisco Valera, *petitioner, vs.* **HONORABLE HAROLD M. HERNANDO and HONORABLE LEOPOLDO B. GIRONELLA, etc.; WENCESLAO, MARIA, FELIZA, LEONIDES, GENEROSO & NIEVA, all surnamed VALERA, et al.,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; *RES JUDICATA;* REQUISITES.** — The Court has repeatedly held that for a judgment to be a bar to a subsequent case, the following requisites must concur: (1) it must be a final judgment; (2) the court which rendered it had jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be identity between the two cases, as to parties, subject matter and cause of action. (*Martinez v. C.A.,* 139 SCRA 563, Nov. 11, 1985; *Caranding v. Venturanza,* Nov. 21, 1984, 133 SCRA 344; *Pantranco North Express, Inc. v.*

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NLRC, Dec. 29, 1983, 126 SCRA 526; *Gatus v. C.A.,* Jan. 28, 1980, 95 SCRA 530).

2. **ID.; ID.; ID.; ID.; JUDGMENT ON THE MERITS; NOT PRESENT IN CASE AT BAR.** — The claim of Celso Valera had never been decided on the merits although the properties in question were owned in common or *pro-indiviso* by Francisco, Celso and Virgilio Valera. In other words Celso Valera was in the same situation as Virgilio Valera, entitled to the same benefits and subject to the same liabilities. Indeed there is merit in the claim of counsel for petitioner in L-35292 that this case is analogous to a situation where two defendants were sued under a common cause of action. One defendant answered, the other was in default. The Court ruled that the judgment in favor of the defendant who was not in default inures to the benefit of the defendant who was in default. (Citing *Castro v. Pea*, 80 Phil. 489; *Velez v. Ramos*, 40 Phil. 787, 792)

3. **ID.; ID.; ID.; ID.; COURT RENDERING THE DECISION MUST HAVE JURISDICTION OVER THE SUBJECT MATTER; NOT PRESENT IN CASE AT BAR.** — Thus, it is well settled that if the trial court never had jurisdiction over the person of defendant there can not be any final judgment on the merits and there can be no *res judicata* (*Dacosin v. Court of Appeals,* 80 SCRA 89). A requisite of *res judicata* is that the court rendering the decision must have jurisdiction over the subject matter and over the parties (*Philippine Commercial and Industrial Bank v. Pfleider*, 65 SCRA 13; *Hagonoy v. Secretary of Agriculture and Natural Resources,* 73 SCRA 507). "Furthermore, the want of jurisdiction by a court over the subject matter renders its judgment void and a mere nullity, and considering that a void judgment is in legal effect no judgment, by which no rights are divested, from which no rights can be obtained, which neither binds nor bars anyone, and under which all acts performed and all claims flowing out are void, and considering further, that the decision for want of jurisdiction of the court, is not a decision in contemplation of law, and hence can never become executory, it follows that such a void judgment cannot constitute a bar to another case by reason of res judicata." (*Arevalo v. Benedicto*, 58 SCRA 186)

APPEARANCES OF COUNSEL

Romeo R. Bringas for petitioner.
Eustaquio Z. Montero for private respondents.

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DECISION

PARAS, *J.*:

This is a special civil action for *certiorari*, prohibition and *mandamus* where petitioner prays for the following relief in Civil Case No. 1044 titled "*Catalina Vda. de Valera, et al., v. Adoracion de Bringas*" of the Court of First Instance of Abra, Branch II, to wit:

I. To Annul the following orders of Judge Leopoldo B. Gironella:

   (a) Order dated August 24, 1977, deferring resolution of petitioner's motion to dismiss Civil Case No. 1044. (*Rollo*, p. 105)

   (b) Order dated October 20, 1978, where Judge Gironella inhibits himself from proceeding with the Civil Case No. 1044. (*Rollo*, p. 134)

   (c) Order dated December 9, 1977, deferring resolution of petitioner's Special and Affirmative defenses. (*Rollo*, p. 128)

   (d) Order dated November 28, 1978, denying petitioner's motion for reconsideration of Judge Gironella's order of October 20, 1978. (*Rollo*, p. 142-a)

II. To Annul the Orders of Judge Harold M. Hernando issued also in this case:

   (a) Order dated January 23, 1979 (Annex "R") denying the motion to dismiss Civil Case No. 1044. (*Rollo*, p. 145)

   (b) Order dated August 3, 1979 (Annex "X") admitting the complaint in intervention in Civil Case No. 1044. (*Rollo*, p. 177)

   (c) Order dated September 19, 1979 (Annex "BB" denying the motion for the disqualification of Judge Hernando. (*Rollo*, p. 185)

III. To enjoin permanently Judge Hernando from acting on, hearing, trying and deciding the same civil case.

IV. To direct Judge Hernando to return said Civil Case to Judge Gironella and to direct the latter to dismiss the complaint and the complaint in intervention in the same.

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Pending decision in this case, it is also prayed that a writ of preliminary injunction be issued enjoining Judge Hernando from further acting on, hearing, trying and/or deciding Civil Case No. 1044.

Petitioner Adoracion de Bringas filed this petition in her capacity as Administratrix in the settlement of the intestate estate of Francisco Valera.

The facts of this case are as follows:

Francisco, Virgilio and Celso, all surnamed Valera, were brothers. Francisco died on March 10, 1945, leaving no compulsory heirs. Special Proceeding No. 64, R-1 was filed in the Court of First Instance of Abra for settlement of the intestate estate of Francisco Valera. Virgilio Valera was appointed and acted as the administrator until his death in March, 1961. Later, herein petitioner Adoracion Valera Bringas, who claims to be an acknowledged natural child of Francisco Valera, was appointed administratrix (See *Vda. de Valera v. Ofilada,* L-27526, 59 SCRA 98).

On April 10, 1964, petitioner filed in the intestate proceedings a petition captioned as "Petition for an Order to Pay Rental" alleging therein that the estate of the deceased is the owner of 1/3 (pro-indiviso) of the former Valera residence located at Pardo and Taft Streets in Bangued, Abra and that since the death of the deceased in 1945 the aforementioned premises had been occupied by Virgilio Valera and his family as well as by Celso Valera and his family until the latter moved out to the house they bought at Taft and Bowen Streets also in Bangued, Abra. Petitioner maintained that the amount of P300.00 a month as rental of the above-mentioned property is just and reasonable and that therefore, the estate is entitled to 1/3 of the same or P100.00 a month due from the above-mentioned occupants, from April, 1945, and every month thereafter for the duration of their occupancy plus legal interest (Annex "A", *Rollo*, p. 47).

Acting on this petition, Judge Alfonso P. Donesa issued an Order on July 10, 1964, as follows:

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"ORDER

"The Administratrix, through counsel, has petitioned for an order to pay rental on the property (Item I-B, 23 of the Inventory submitted by the administratrix, pp. 415-416, rec.) owned in common by the estate of the deceased Francisco Valera y Verzosa and the late Virgilio Valera and Celso Valera, corresponding to one-third (1/3) interest pertaining to the estate of the deceased Francisco Valera to be paid by the family of Virgilio Valera and Celso Valera and family have been occupying the property since April, 1945, in the amount of P100.00 a month, plus legal interest, the same to be paid to the administratrix.

WHEREFORE, finding the said motion to be well-founded and meritorious, the same is hereby granted. It is further ordered that the Clerk of Court shall furnish Angelita Garduque Vda. de Valera with a copy of this order by registered mail." (Annex B, *Ibid*, p. 48).

The motion for reconsideration filed by the heirs of Virgilio Valera was denied on April 15, 1966. (please see *Vda. de Valera vs. Ofilada*, 59 SCRA 100.)

Meanwhile, petitioner again moved for "Execution and for an Order Directing Delivery of the Fruits of Properties or Value and Monies of the Estate to the Administratrix" and prayed therein that Judge Donesa's order for the payment of rentals be executed (please see *Vda. de Valera v. Ofilada*, 59 SCRA 100). LexLib

This motion was granted by Judge Macario M. Ofilada on April 15, 1966 and an Order was issued as follows:

"Finding the 'Motion for Execution and for an Order Directing the Delivery of Fruits of the Properties or Value thereof and Monies of the Estate to the Administratrix' well founded and meritorious, it is hereby directed:

1. That a writ of execution issue against the heirs of Virgilio Valera and Celso Valera insofar as the collectible rents pertaining to the estate are concerned;

2. That the heirs of Virgilio Valera and Celso Valera deliver to the administratrix properties still in their possession which among those listed in the 'Incomplete Inventory and Appraisal of the Real and Personal Estate of the Deceased, Francisco Valera y Versoza' filed by the Administratrix on September 17, 1965;

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3. That the heirs of Virgilio Valera and Celso Valera and family account to the administratrix the fruits of the properties of the estate listed in the said amended inventory;

4. That the heirs of Virgilio Valera deliver to the administratrix the sum of P4,784.98 representing the insurance and war damage monies collected by Virgilio Valera;

5. That Celso Valera account to the administratrix the war damage monies received by him for the destroyed Valera family residence and deliver 1/3 of the same to the administratrix; and,

6. That failure to render a satisfactory accounting as hereby required within 15 days from receipt of this order shall, conformably with Sec. 8 of Rule 87 of the Rules of Court, make the heirs of Virgilio Valera and Celso Valera liable to double the value of the fruits and monies unaccounted for.

"It is further ordered that the Clerk of Court immediately set 2 days for the examination of the persons required to appear in the order dated July 10, 1964." (Annex "C", *Ibid.*, p. 49.)

In questioning the above order of Judge Ofilada, the heirs of Virgilio Valera filed with the Court on May 8, 1967 a petition for *certiorari* with the preliminary injunction docketed as L-27526 wherein this Court held:

"Had the Court of First Instance of Abra been more cognizant of the limitations on its prerogatives as a probate court, it would not have committed the jurisdictional and procedural errors pointed out in this *certiorari* case by the petitioners, the heirs of the late Virgilio Valera.

"The record discloses that the lower court exceeded its jurisdiction issuing its orders of July 10, 1964, April 15, 1966 and January 4, 1967 as well as the writ of execution against the assets of the deceased Virgilio Valera. The jurisdictional and procedural errors committed by the lower court justify the writ of *certiorari*. x x x

"x x x x x x x x x

"Wherefore, the writ of execution and the Sheriff's execution sale on April 3, 1967 and all proceedings relative thereto as well as the orders of July 10, 1964, April 15, 1966, January 4, April 3 and May 2, 1967 of the lower court, are declared void and are set aside, insofar as the heirs of Virgilio Valera or his estate are concerned, without prejudice to the right

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of Adoracion Valera Bringas to institute the proper action against the administrator of the late Virgilio Valera and to file the appropriate claims in the proceedings for the settlement of his estate." (*Vda. de Valera v. Ofilada*, L-27526, Sept. 12, 1974, 59 SCRA 96.)

On the other hand it does not appear from the records that Celso Valera or his heirs joined the heirs of Virgilio Valera in the petition filed in L-27526 and the findings of the Court of Appeals (now Intermediate Appellate Court) in CA-G.R. No. 45226-R are to the effect that Celso Valera had slept on his rights by not elevating the merits of the case within the reglementary period. (*Rollo*, p. 61).

But Celso Valera moved for reconsideration of the questioned Orders of July 10, 1964 and April 15, 1966 issued by Judges Donesa and Ofilada respectively, both of which were denied. Celso Valera appealed from said Orders but his notice of appeal was denied by the lower court on the ground that Order dated July 10, 1964 has already become final and Order dated April 15, 1966 is interlocutory. (*Rollo*, pp. 6-7). Celso Valera filed a petition for mandamus with the then Court of Appeals (now Intermediate Appellate Court) docketed as CA-G.R. No. 37751, entitled "*Celso Valera v. Hon. Macario M. Ofilada, et al.*" to compel respondent Judge to approve and certify proposed Record on Appeal and Appeal Bond. The Court of Appeals dismissed the petition for Mandamus in the resolution of July 28, 1966 for the reason that the record on appeal was defective for failure to show on its face that the appeal was perfective on time. (*Ibid.*, p. 25).

On *certiorari* in G.R. No. L-26560 "*Celso Valera v. Court of Appeals,*" the Supreme Court dismissed the petition to set aside the resolution of the Court of Appeals in CA-G.R. No. 37751 above-cited for "being late and for lack of merit; the period to appeal expired on October 3." (*Ibid.*, p. 49).

Celso Valera died on October 29, 1972. (Complaint, *Ibid.*, p. 33). His heirs, Wenceslao Valera, et al., private respondents in this case, filed Civil Case No. 996 in CFI-Abra against Adoracion de Bringas for ownership and restoration of Celso Valera's properties invoking the decision of this Court in *Vda. de Valera v. Ofilada*. The heirs, however, withdrew the case for further study and on

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February 1, 1977, the same was dismissed without prejudice with the conformity of petitioner. (Comment, *Ibid.*, p. 237).

Reiterating the arguments in Civil Case No. 996, Wenceslao Valera, et al., the heirs of Celso Valera filed on February 11, 1977, Civil Case No. 1044 against petitioner at the CFI of Abra, Branch II, for the restoration of the properties of Celso Valera which were levied upon on execution by Adoracion Bringas as a consequence of Special Proceedings No. 64, R-1 wherein it was ruled that the Valera residence was owned pro-indiviso by Francisco Valera, Virgilio Valera and Celso Valera and that the estate of Francisco Valera where Adoracion de Bringas is the administratrix is entitled to 1/3 share. (Complaint, *Ibid.*, p. 36).

Petitioner moved for the dismissal of the case on March 11, 1977 on the following grounds:

1. The cause of action has been barred by prior judgment.
2. Court has no jurisdiction over the subject or nature of the action.
3. Plaintiffs have no personality to sue.
4. The complaint estates no cause of action. (Motion to dismiss, *Ibid.*, p. 58).

On May 16, 1977 respondent Judge Hernando dismissed Civil Case No. 1044 on the ground of pendency of Civil Case No. 996 involving the same parties and the same cause of action but upon motion for reconsideration by private respondents, set aside the Order of Dismissal on August 12, 1977 and directed the transfer of the case to Branch II presided over by Judge Gironella pursuant to Circular No. 7 of the Supreme Court.

The resolution of the Motion to Dismiss and the special and affirmative defenses interposed by petitioner was deferred in the Order August 24, 1977 (*Rollo*, p. 105) and the Order dated December 9, 1977 (*Rollo*, p. 128) respectively, pending the pre-trial and the trial of the case for the reason that the grounds relied upon were not indubitable.

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During the pre-trial which was held as scheduled, Judge Gironella found an amicable settlement impossible. (Annex "K", *Ibid.*, p. 132).

On October 20, 1978, Judge Gironella inhibited himself from further trying Civil Case No. 1044 in view of his decision in Civil Case No. 861 which concerned basically the same issues, both cases seeking the recovery of properties subject of the writ of execution and Sheriff's execution sale which were declared null and void by the Supreme Court in G.R. No. L-27526. The latter case which was filed also against the herein petitioner by the Roman Catholic Bishop of Bangued to recover one parcel of land previously bought from Celso Valera, which was among the thirteen (13) parcels of land of Celso Valera now in possession of Adoracion de Bringas as a result of aforesaid writ of execution and Sheriff's execution sale, was already decided by said Judge in favor of Adoracion Valera holding that the decision of the Supreme Court is only with respect to the heirs of Virgilio Valera. (Annex "L", *Ibid.*, pp. 133-134).

Petitioner moved for reconsideration of the resolution inhibiting Judge Gironella from proceeding with the case and praying that Civil Case No. 1044 be dismissed (*Rollo*, pp. 138-139). Said motion was denied (Order dated November 28, 1978, *Rollo*, p. 142-a). The next day, another Order was issued holding in abeyance the resolution of the motion for reconsideration on the order of inhibition until after receipt of this Court's instructions.

This Court resolved on January 4, 1979, to approve Judge Gironella's order of inhibition and ordered Judge Harold M. Hernando to take cognizance of the case (Annex "Q", *Ibid.*, p. 144).

In turn, on January 23, 1979, Judge Hernando denied the motion to dismiss Civil Case No. 1044 in his Order dated January 23, 1979 (*Rollo*, p. 145).

On August 3, 1979, he admitted the complaint in intervention as amended, filed by one of herein respondents, Eva Pe Benito, as administratrix of the estate of Virgilio Valera, on the ground that said estate is a co-owner of eleven (11) out of the thirteen (13) parcels of land subject of litigation in Civil Case No. 1044. In the same Order he set the pre-trial conference for September 19, 1979. (Comment of Respondent Pe Benito, *Rollo*, p. 402. In an Order

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dated September 19, 1979 Judge Hernando denied the motion for his disqualification for lack of basis and set the case for trial on the merits.

Hence, this petition.

In a resolution of this Court dated December 3, 1979, respondents were required to comment (*Ibid.*, p. 212) but before their comments were received by this Court, petitioner had filed an urgent *ex-parte* motion on December 27, 1979, reiterating her prayer for the immediate issuance of a restraining order (*Ibid.*, pp. 216-217) which order was granted in the resolution of January 18, 1980 (*Ibid.*, p. 230) enjoining respondent Judge "from (conducting) further proceedings in the case and from enforcing and/or carrying out any orders issued in said case and to restore possession of properties taken from Adoracion Valera Bringas by virtue of the above-mentioned orders" (*Ibid.*, p. 231).

Respondents filed their respective comments; Judge Gironella's comment was received by this Court on January 24, 1980 (*Ibid.*, pp. 237-242); Judge Hernando's on January 25, 1980 (*Ibid.*, pp. 246-249); and private respondents' on February 11, 1980 with motion to reconsider restraining order dated January 18, 1980 with motion to reconsider restraining order dated January 18, 1980, and submitting therein for the consideration of this Court a Supersedeas Bond in the amount P50,000.00 for the lifting of the said restraining order (*Ibid.*, pp. 258-262). Respondents Eva Pe Benito, the intervenor, filed her comment on February 28, 1980 (*Ibid.*, pp. 400-408).

Meanwhile in the CFI-Abra, on December 17, 1979 there was a hearing of the Civil Case No. 1044 Judge Hernando, acting on private respondents' (Plaintiff therein) oral motion for judgment on the pleadings, directed said respondents to file a written motion for judgment on the pleadings along with their evidence, and petitioner (then defendant) to file her opposition thereto within fifteen (15) days from receipt thereof (Order, *Ibid.*, p. 293).

On January 11, 1980, respondent court rendered a judgment on the pleadings ruling as follows:

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"It must be recalled in this case that way back on *September 12, 1974* in the case of '*Vda. de Valera vs. Ofilada,* 59 SCRA 96' it was held:

> 'WHEREFORE, the writ of Execution and the Sheriff's Auction Sale on April 3, 1967 and all proceedings relative thereto as well as the Orders of July 10, 1964, April 15, 1966, January 4, April 3 and May 2, 1967 of the lower court are declared void and are set aside insofar as the heirs of Virgilio Valera or his estate are concerned, without prejudice to the right of Adoracion Valera Bringas to institute the proper action against the administrator of the estate of the late Virgilio Valera and to file the appropriate claims in the proceeding for the settlement of his estate.' (Italics ours).

"In view of all the foregoing, judgment on the pleadings is in order; the aforequoted dispositive portion of the decision of the Honorable Supreme Court dated September 12, 1974, must therefore be immediately implemented because it is now long over due and that the properties covered by the Writ of Execution and Sheriff's Auction Sale dated April 3, 1967 which were delivered by the Sheriff to the defendant Adoracion Bringas, said defendant is hereby ordered to surrender, return and deliver the actual possession of the said properties to the Heirs of Virgilio Valera and the plaintiffs, and for defendant to render an accounting of the fruits and/or rents received by her from the time she took actual possession of said properties until actual delivery and return of the same and to be rendered and filed within thirty (30) days from today and subject to formal hearing and court approval. No extension shall be entertained. This Order of Implementation of the above-quoted decision of the Honorable Supreme Court is immediately enforceable, final and executory. No cost." (*Ibid.*, pp. 310-311).

On the next day, private respondents filed a motion for the issuance of a writ of execution and for a writ of assistance to be issued to the Abra Provincial Commander and Superintendent of the INP to assist the Sheriff in the actual delivery and possession of the properties to said respondents and in an Order by Judge Hernando dated January 17, 1980, the motion was granted and accordingly, both writs were issued (*Ibid.*, p. 316).

A Supplementary Petition was filed on February 18, 1980 by the petitioner questioning among other things the respondent court's judgment on the pleadings and the writs of execution issued pursuant thereto (*Rollo*, pp. 269-292). By way of answer, a supplementary comment (*Ibid.*, p. 445) was filed by respondent

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court, alleging that herein respondents orally and formally moved for judgment on the pleadings on the ground that the return, delivery and repossession of the properties covered by the writ of execution and Sheriff's execution sale dated April 3, 1967, and all proceedings thereon had been declared null and void and set aside by the Supreme Court in *Vda. de Valera v. Ofilada*, September 12, 1974, 59 SCRA 96, and the implementation of their decision is long overdue. It further stated that petitioner's counsel orally opposed the motion for judgment on the pleadings on December 17, 1979 in open court, and therefore there was no more necessity that the motion for judgment on the pleadings and the opposition thereto be reduced into writing because petitioner had already been afforded "complete due process."

On February 15, 1980, this Court resolved to dismiss subject petition for lack of merit and the lift the temporary restraining order issued on January 18, 1980 (*Ibid.*, p. 371).

An urgent motion for reconsideration (*Ibid.*, pp. 374-375) was filed by petitioner on February 21, 1980 and a day thereafter she also filed an addendum to her reply to respondent's comment (*Ibid.*, pp. 388-389) reiterating therein the prayers in her petition, supplementary petition, and urgent motion for reconsideration, particularly the reconsideration of the resolution of this Court of February 15, 1980, and that the restraining order be reinstated and the petition be given due course.

This urgent motion for reconsideration of the petition was vehemently opposed by the respondents (*Ibid.*, pp. 421-429) which prayed for the denial of the same for being "purely factual" and "devoid of merit." Private respondents also filed a joint opposition (*Ibid.*, pp. 460-474) dated March 11, 1980 stating therein that the petitioner's motion for reconsideration is *pro forma* because petitioner raised no new issues; that if ever the trial court had committed errors, they are merely errors of procedure and mistakes of judgment correctible by ordinary appeal and not by *certiorari*, prohibition, or *mandamus;* and that said motion is already moot and academic, petitioner having filed a notice of appeal on March 5, 1980.

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Nonetheless, in the resolution of February 22, 1980, the Court in effect reinstated the temporary restraining order issued pursuant to the resolution of January 18, 1980 and set the hearing of the case on March 12, 1980.

At the hearing of the case on March 12, 1980, the case was considered submitted for decision, without prejudice to the parties trying their best to come to an amicable settlement, the Court taking note of the personal commitment of the petitioner and her counsel-husband that in the event the petitioner should be able to obtain properties from the estate by Virgilio Valera in Civil Case No. 869, other than those already in her possession, namely, the thirteen (13) parcels taken from Celso Valera by a writ of mandamus in 1973 and the six (6) parcels delivered to her voluntarily by the heirs of Virgilio Valera in 1965, she would voluntarily waive one-third (1/3) thereof in favor of the heirs of Celso Valera. And considering that the matter of the estate of Virgilio Valera has already been definitely settled in a final judgment of this Court in G.R. No. L-27526, it was insofar therefor only as the Estate of Virgilio Valera that the petitioner and the heirs of Celso Valera were given thirty (30) days within which to arrive at an extrajudicial settlement (*Ibid.*, p. 443).

Meanwhile on August 4, 1986, petitioner's counsel filed a comment on private respondents' motion for affirmation of resolution dismissing petitioners' petition (*Rollo*, pp. 562-569). Said comment is a reiteration of the arguments in the petition, but it quoted at the same time an apparent typographical error in the resolution of March 12, 1980 which states "and considering that the matter of the estate of *Celso Valera* (should be of *Virgilio Valera*) has definitely decided in a final judgment of this Court in G.R. No. L-27526," (italics supplied), obviously with the impression that the petition in case at bar had already been resolved in favor of petitioner.

This petitioner is devoid of merit.

The crucial issue in this case whether or not Civil Case No. 1044 should be dismissed on the ground of *res judicata*.

The main thrust of petitioner's arguments is that this case is barred by prior judgments of cases brought by private respondents

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herein, in the lower courts, in the Intermediate Appellate Court, and finally in the Supreme Court

The Court has repeatedly held that for a judgment to be a bar to a subsequent case, the following requisites must concur: (1) it must be a final judgment; (2) the court which rendered it had jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be identity between the two cases, as to parties, subject matter and cause of action. (*Martinez v. Venturanza*, Nov. 21, 1984, 133 SCRA 344; *Pantranco North Express, Inc. v NLRC*, Dec. 29, 1983, 126 SCRA 526; *Gatus v. C.A.,* Jan. 28, 1980, 95 SCRA 530).

It will be recalled that among the matters agreed upon by the parties in the pre-trial conference of Civil Case No. 1044 is that properties sought to be recovered had been in the actual possession of the estate of Francisco Valera since 1973 and that said possession of all the properties described in the complaint originated from the Order of the Probate Court in Civil Case No. 64-R-1 dated April 10, 1964 (should be July 10, 1964) directing the late Celso Valera, father of the plaintiffs, to pay rentals (*Rollo*, pp. 129-130). In the same Civil Case No. 64-R-1, a writ of execution was issued to enforce payment of said rentals on February 13, 1967 by virtue of which respondent Sheriffs advertised for sale certain properties of Celso Valera for payment thereof. (Record on Appeals, p. 2, *Rollo*, L-27886).

Petitioner insisted that all subsequent cases filed by Celso Valera in protest to said Orders if the lower court have already been finally decided and settled by the Intermediate Appellate Court and even by the Supreme Court, citing cases and rulings thereon.

However, a careful perusal and study of cited cases show that the dismissal of Celso Valera's appeal on the questioned Orders, as well as the denial of his various petitions for certiorari and mandamus, were not resolutions on the merits of the case but on the ground that the same were filed beyond the reglementary period or of certain incidents not necessarily involving the same parties or the same cause of action.

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G.R. No. L-26560, "*Celso Valera v. Ofilado, et al.* originated from an appeal against the Order of July 10, 1964 and April 15, 1966 which was denied by the lower court on the ground that the first Order had already become final while the latter Order was interlocutory. On Mandamus in CA-G.R. No. 37751 to compel respondent Judge to approve said appeal, the Court of Appeals dismissed the petition in the resolution of July 28, 1966 for the reason that the record on appeal failed to show on its face that the appeal had been filed on time. On review by *certiorari*, the Supreme Court dismissed the petition for being late and for lack of merit, the period to appeal having expired on October 1, 1966 and the petition was actually filed only on October 3. (Resolution of Supreme Court on November 7, 1977 [*Rollo* of L-26560, p. 49]).

G.R. No. L-27886 "*Celso Valera v. Bañez, etc., et al.*," originated from a complaint filed with the Court of First Instance of Abra (Civil Case No. 481) for annulment of Writ of Execution with Preliminary Injunction Against the Deputy Provincial Sheriff of Abra, et al. who in pursuance thereof advertised for auction sale certain properties of Celso Valera for the payment of rent due the estate together with interest thereon, on the basis of the assailed orders. In an Order dated April 3, 1967, the complaint was dismissed on the ground that respondents were performing ministerial functions which the court cannot enjoin, and the court having ordered the issuance of the writ of execution cannot issue the writ prayed for. (Record on Appeal, *Rollo* of L-27886).

On appeal, the Supreme Court took judicial notice of the fact that the instant case is factually related to G.R. No. L-26560 which was dismissed for being late and for lack of merit but resolved the merits, not of the questioned Order of July 10, 1964, but of the Order dated April 3, 1967 dismissing the complaint for annulment of the Writ of Execution. Thus, finding no reversible error in aforesaid Order, and the appeal being unmeritorious, dismissed the same in the decision of L-26886 promulgated on September 21, 1982. (*Rollo*, L-27886; 116 SCRA 643).

G.R. No. L-35292 "*Celso Valera v. Court of Appeals*," was an offshoot of the Order of the Probate Court dated February 5, 1970 suspending action on the motion of the Administratrix of the intestate estate of Francisco Valera for the delivery to estate of

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thirteen (13) parcels of land belonging to Celso Valera which were sold to the estate at an execution sale. The suspension was based on the pendency in the Supreme Court of L-27256 wherein the legality of the execution of the probate Court's Order or judgment against the family of the late Virgilio Valera and of Celso Valera and family was being assailed on jurisdictional grounds. On certiorari and mandamus in CA-G.R. No. 45266-R "*Bringas v. Aquino, et al.*, the Court of Appeals found the petition meritorious and set aside the Orders of February 5, 1970 and March 31, 1970. Respondent Judge was ordered to issue a writ of possession directing respondent deputy provincial Sheriff to deliver to and place petitioner-administratrix in possession of the properties in question. (*Rollo* of L-35192, pp. 7-20). On appeal by *certiorari*, the Supreme Court in L-20). On appeal by *certiorari*, the Supreme Court in L-35292 in the resolution of August 25, 1972 Resolved to DENY the petition for lack of merit., (*Ibid.*, p. 39).

In L-27526, "*Angelita Vda. de Valera, et al. v. Ofilada, et al.*" (September 12, 1974, 59 SCRA 96), the Supreme Court finally had the occasion to rule on the validity of the assailed orders of Civil Case No. 64-R-1. As previously discussed, the Court ruled:

> "WHEREFORE, the wit of execution and the Sheriff's execution sale on April 3, 1967 and all proceedings relative thereto as well as the Orders of July 10, 1964, April 15, 1966, January 4, April 3 and May 2, 1967 of the lower court are declared void and are set aside, insofar as the heirs of Virgilio Valera or his estate are concerned, without prejudice to the right of Adoracion Valera Bringas to institute the proper action against the administrator of the estate of the late Virgilio Valera and to file the appropriate claims in the proceedings for the settlement of his estate. No pronouncement as to costs."

Now at issue in the instant case is whether or not, the heirs of Celso Valera stand to benefit from the above-cited decision, considering the insistence of the adverse parties that the decision of Civil Case No. 64-R-1 had already become final insofar as said heirs are concerned.

In L-27526 there is no argument that the decision was in favor only for the heirs of Virgilio Valera, obviously for the reason that neither Celso Valera nor his heirs were parties to that case. It cannot

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mean however that the latter should be barred from the filing of another case in order to avail themselves of the benefits of aforesaid case, under a principle similar to *res judicata*.

As we have pointed out earlier, the claim of Celso Valera had never been decided on the merits although the properties in question were owned in common or *pro-indiviso* by Francisco, Celso and Virgilio Valera. In other words Celso Valera was in the same situation as Virgilio Valera, entitled to the same benefits and subject to the same liabilities. Indeed there is merit in the claim of counsel for petitioner in L-35292 that this case is analogous to a situation where two defendants were sued under a common cause of action. One defendant answered, the other was in default. The Court ruled that the judgment in favor of the defendant who was not in default inures to the benefit of the defendant who was in default. (Citing *Castro v. Peña*, 80 Phil. 489; *Velez v. Ramos*, 40 Phil. 787, 792; [Petition, p. 37; *Rollo* of L-35292]).

Finally in L-27526 the Supreme Court nullified the same Orders on which the deprivation of Celso Valera's rights and properties was based, on the ground of lack of jurisdiction of the probate court to issue them.

Thus, it is well settled that if the trial court never had jurisdiction over the person of defendant there can not be any final judgment on the merits and there can be no *res judicata* (*Dacosin v. Court of Appeals*, 80 SCRA 89). A requisite of *res judicata* is that the court rendering the decision must have jurisdiction over the subject matter and over the parties (*Philippine Commercial and Industrial Bank v. Pfleider*, 65 SCRA 13; *Hagonoy v. Secretary of Agriculture and Natural Resources,* 73 SCRA 507). "Furthermore, the want of jurisdiction by a court over the subject matter renders its judgment void and a mere nullity, and considering that a void judgment is in legal effect no judgment, by which no rights are divested, from which no rights can be obtained, which neither binds nor bars anyone, and under which all acts performed and all claims flowing out are void, and considering further, that the decision for want of jurisdiction of the court, is not a decision in contemplation of law, and hence can never become executory, it follows that such a void judgment cannot constitute a bar to another case by reason of *res judicata*." (*Arevalo v. Benedicto*, 58 SCRA 186).

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PREMISES CONSIDERED, We rule: (a) that respondent Court's judgment on the pleadings rendered on January 11, 1980 and the Order of January 17, 1980 both applying the benefits of the decision in L-27526 also in favor of the heirs of Celso Valera should be, as they are hereby, AFFIRMED; (b) that the other issues in this case are hereby considered moot and academic by virtue of the decision in this case; and (c) that the "Comment On Private Respondents' Motion for Affirmation of Resolution Dismissing Petitioner's Petition," is hereby noted.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Cruz, JJ.,* concur.

Gutierrez, Jr., J., took no part.

SECOND DIVISION

[G.R. No. 63453. September 24, 1986]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LIBERATO ADONES and DAVID ADONES,** *defendants-appellants.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; FINDINGS OF FACT OF THE TRIAL COURT, GENERALLY ACCORDED GREAT WEIGHT AND RESPECT.**— We have carefully studied the records of this case and find no reason to deviate from the well-settled rule that the findings of fact of the trial court on the credibility of witnesses are generally accorded the highest respect by the appellate court (*People v. Cabanit*, 139 SCRA 94; *People v. Sarol,* 139 SCRA 125; *People v. Valentino,* 141 SCRA 397; *People v. Pelias Jones*, 137 SCRA 166; *People v. Egas*, 137 SCRA 188; *People v. Rosario*, 134 SCRA 496), in view of its privilege of