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of the fraud that was perpetrated by their sister Estela and the persons posing as Bernardo and Maria as to hold them equally guilty of such fraud.

In fine, we hold that respondents Ernesto and Dominador Alzona are mortgagees in good faith and, as such, they are entitled to the protection of the law.

WHEREFORE, the instant petition is *DENIED* and the assailed decision and resolution of the Court of Appeals in CA-G.R. CV No. 52951 are *AFFIRMED in toto.*

SO ORDERED.

Puno, Callejo, Sr., Tinga, and *Chico-Nazario, JJ.*, concur.

SECOND DIVISION

[G.R. No. 152195. January 31, 2005]

PEDRO SEPULVEDA, SR., substituted by SOCORRO S. LAWAS, Administratrix of His Estate, *petitioner, vs.* **ATTY. PACIFICO S. PELAEZ,** *respondent.*

SYLLABUS

1. CIVIL LAW; SUCCESSION; INTESTATE SUCCESSION; SURVIVING SPOUSE'S SHARE IN USUFRUCT IN THE ESTATE OF THE DECEASED SPOUSE, EXPLAINED.— Under Article 996 of the New Civil Code, Rodolfo Pelaez, as surviving spouse, is entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children who has not received any betterment. The rights of the usufructuary are provided in Articles 471 to 490 of the old Civil Code. In *Gamis v. Court of Appeals,* we held that: Under articles 807 and 834 of the old Civil Code the surviving spouse is a forced heir and entitled to a share in usufruct in the estate of the deceased spouse equal to that which by way

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of legitime corresponds or belongs to each of the legitimate children or descendants who have not been bettered or have not received any share in the one-third share destined for betterment. The right of the surviving spouse to have a share in usufruct in the estate of the deceased spouse is provided by law of which such spouse cannot be deprived and which cannot be ignored. Of course, the spouse may waive it but the waiver must be express.

2. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; PARTITION; ALL CO-HEIRS AND PERSONS HAVING INTEREST IN THE PROPERTY ARE INDISPENSABLE PARTIES; AN ACTION FOR PARTITION WILL NOT LIE WITHOUT THE JOINDER OF THE INDISPENSABLE PARTIES.**— Section 1, Rule 69 of the Rules of Court provides that in an action for partition, all persons interested in the property shall be joined as defendants. x x x. Thus, all the co-heirs and persons having an interest in the property are indispensable parties; as such, an action for partition will not lie without the joinder of the said parties.

3. **ID.; ID.; ID.; ID.; PRESENCE OF ALL INDISPENSABLE PARTIES IS A CONDITION *SINE QUA NON* FOR THE EXERCISE OF JUDICIAL POWER; CASE AT BAR.**— In the present action, the private respondent, as the plaintiff in the trial court, failed to implead the following indispensable parties: his father, Rodolfo Pelaez; the heirs of Santiago Sepulveda, namely, Paz Sepulveda and their children; and the City of Danao which purchased the property covered by T.D. 19804 (T.D. No. 35090) from Pedro Sepulveda, Sr. and maintained that it had failed to pay for the purchase price of the property. Rodolfo Pelaez is an indispensable party he being entitled to a share in usufruct, equal to the share of the respondent in the subject properties. There is no showing that Rodolfo Pelaez had waived his right to usufruct. x x x. Indeed, the presence of all indispensable parties is a condition *sine qua non* for the exercise of judicial power. It is precisely when an indispensable party is not before the court that the action should be dismissed. Thus, the plaintiff is mandated to implead all the indispensable parties, considering that the absence of one such party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present. One who is a party to a

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case is not bound by any decision of the court, otherwise, he will be deprived of his right to due process. Without the presence of all the other heirs as plaintiffs, the trial court could not validly render judgment and grant relief in favor of the private respondent. The failure of the private respondent to implead the other heirs as parties-plaintiffs constituted a legal obstacle to the trial court and the appellate court's exercise of judicial power over the said case, and rendered any orders or judgments rendered therein a nullity.

4. **ID.; ID.; ID.; ID.; ID.; ABSENCE OF AN INDISPENSABLE PARTY RENDERS ALL SUBSEQUENT ACTIONS OF THE COURT NULL AND VOID FOR WANT OF AUTHORITY TO ACT.**— To reiterate, the absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present. Hence, the trial court should have ordered the dismissal of the complaint.

5. **ID.; ID.; ID.; STAGES.**— The mere fact that Pedro Sepulveda, Sr. has repudiated the co-ownership between him and the respondent does not deprive the trial court of jurisdiction to take cognizance of the action for partition, for, in a complaint for partition, the plaintiff seeks, first, a declaration that he is a co-owner of the subject property; and, second, the conveyance of his lawful shares. As the Court ruled in *De Mesa v. Court of Appeals*: The first stage of an action for judicial partition and/or accounting is concerned with the determination of whether or not a co-ownership in fact exists and a partition is proper, that is, it is not otherwise legally proscribed and may be made by voluntary agreement of all the parties interested in the property. This phase may end in a declaration that plaintiff is not entitled to the desired partition either because a co-ownership does not exist or a partition is legally prohibited. It may also end, on the other hand, with an adjudgment that a co-ownership does in truth exist, that partition is proper in the premises, and that an accounting of rents and profits received by the defendant from the real estate in question is in order. In the latter case, "the parties may, if they are able to agree, make partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by all the parties." In either case, whether the action is dismissed or partition and/or accounting is decreed, the order

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> is a final one and may be appealed by any party aggrieved thereby. The second stage commences when the parties are unable to agree upon the partition ordered by the court. In that event, partition shall be effected for the parties by the court with the assistance of not more than three (3) commissioners. This second phase may also deal with the rendition of the accounting itself and its approval by the Court after the parties have been accorded the opportunity to be heard thereon, and an award for the recovery by the party or parties thereto entitled of their just shares in the rents and profits of the real estate in question....

APPEARANCES OF COUNSEL

Walter S. Lawas for petitioner.

Almase, Suarez & Almase-Martinez Law Offices for respondent.

D E C I S I O N

CALLEJO, SR., *J.*:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court, of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 43758 affirming the decision of the Regional Trial Court (RTC) of Danao City, Branch 25, in Civil Case No. SF-175.

On December 6, 1972, private respondent Atty. Pacifico Pelaez filed a complaint against his granduncle, Pedro Sepulveda, Sr., with the then Court of First Instance (CFI) of Cebu, for the recovery of possession and ownership of his one-half (1/2) undivided share of several parcels of land covered by Tax Declaration (T.D.) Nos. 28199, 18197, 18193 and 28316; his undivided one-third (1/3) share in several other lots covered by T.D. Nos. 28304, 35090, 18228, 28310, 26308, 28714, 28311, 28312 and 28299 (all located in Danao, Cebu); and for the partition thereof among the co-owners. The case was docketed as Civil Case No. SF-175.

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[1] Penned by Associate Justice Conchita Carpio-Morales (now an Associate Justice of the Supreme Court), with Associate Justices Martin S. Villarama, Jr. and Sergio L. Pestaño (retired), concurring.

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The eleven (11) lots were among the twenty-five (25) parcels of land which the private respondent's mother, Dulce Sepulveda, inherited from her grandmother, Dionisia Sepulveda under the Project of Partition[2] dated April 16, 1937 submitted by Pedro Sepulveda, Sr. as the administrator of the former's estate, duly approved by the then CFI of Cebu in Special Proceeding No. 778-0. Under the said deed, Pedro Sepulveda, Sr. appeared to be the owner of an undivided portion of Lot No. 28199, while his brother and Dulce's uncle Santiago Sepulveda, was the undivided owner of one-half (1/2) of the parcels of land covered by T.D. Nos. 18197, 18193 and 28316. Dulce and her uncles, Pedro and Santiago, were likewise indicated therein as the co-owners of the eleven other parcels of land, each with an undivided one-third (1/3) share thereof.

In his complaint, the private respondent alleged that his mother Dulce died intestate on March 2, 1944, and aside from himself, was survived by her husband Rodolfo Pelaez and her mother Carlota Sepulveda. Dulce's grandfather Vicente Sepulveda died intestate on October 25, 1920,[3] and Dulce was then only about four years old. According to the private respondent, his grandmother Carlota repeatedly demanded the delivery of her mother's share in the eleven (11) parcels of land, but Pedro Sepulveda, Sr. who by then was the Municipal Mayor of Tudela, refused to do so. Dulce, likewise, later demanded the delivery of her share in the eleven parcels of land, but Pedro Sepulveda, Sr. still refused, claiming that he needed to continue to possess the property to reap the produce therefrom which he used for the payment of the realty taxes on the subject properties. The private respondent alleged that he himself demanded the delivery of his mother's share in the subject properties on so many occasions, the last of which was in 1972, to no avail.

The private respondent further narrated that his granduncle executed an affidavit[4] on November 28, 1961, stating that he

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[2] Records, p. 12.

[3] TSN, 13 April 1992, p. 28.

[4] Records, p. 171.

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was the sole heir of Dionisia when she died intestate on June 5, 1921, when, in fact, the latter was survived by her three sons, Santiago, Pedro and Vicente. Pedro Sepulveda, Sr. also executed a Deed of Absolute Sale[5] on July 24, 1968 over the property covered by T.D. No. 19804 (T.D. No. 35090) in favor of the City of Danao for ₱7,492.00. According to the private respondent, his granduncle received this amount without his (private respondent's) knowledge.

The private respondent prayed that, after due hearing, judgment be rendered in his favor, thus:

ON THE FIRST CAUSE OF ACTION:

1. Declaring the plaintiff the absolute owner of ONE-HALF (1/2) portion of the TWO (2) parcels of land described in paragraph 2 of the complaint;

2. Declaring the plaintiff the absolute owner of the ONE-THIRD (1/3) portion of the NINE (9) parcels of land described in paragraph 3 of the complaint;

3. Ordering the defendant to deliver to the plaintiff the latter's ONE-THIRD (1/3) share of the SEVEN THOUSAND FOUR HUNDRED NINETY-TWO PESOS (P7,492.00) representing the purchase price of the parcel of land described in paragraph 3(a) of the complaint with interest thereon until the amount is fully paid;

ON THE SECOND CAUSE OF ACTION:

1. Ordering the partition and segregation of the ONE-HALF (1/2) portion belonging to the plaintiff of the TWO (2) parcels of land described in paragraph 2 of the complaint;

2. Ordering the partition and segregation of the ONE-THIRD (1/3) portion belonging to the plaintiff of the remaining EIGHT (8) parcels of land described in paragraph 3 of the complaint;

COMMON TO THE FIRST AND SECOND CAUSES OF ACTION:

1. Ordering the defendant to pay the plaintiff the amount of FIFTY THOUSAND PESOS (₱50,000.00) as moral damages;

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[5] Exhibit "C-3".

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2. Ordering the defendant to pay the plaintiff exemplary damages the amount of which is left to the discretion of this Honorable Court;

3. Ordering the defendant to deliver to the plaintiff the latter's share of the fruits of the ELEVEN (11) parcels of land subject-matter of this complaint, the value of which will be proven during the trial;

4. Ordering the defendant to pay the plaintiff actual litigation expenses, the value of which will be proven during the trial;

5. Ordering the defendant to pay attorney's fee in the amount of TWELVE THOUSAND PESOS (₱12,000.00);

6. Granting to the plaintiff such other reliefs and remedies as he may be entitled to in accordance with law and equity.[6]

In his answer to the complaint, Pedro Sepulveda, Sr. admitted having executed a deed of sale over the parcel of land covered by T.D. No. 19804 in favor of Danao City, but averred that the latter failed to pay the purchase price thereof; besides, the private respondent had no right to share in the proceeds of the said sale. He likewise denied having received any demand for the delivery of Dulce's share of the subject properties from the latter's mother Carlota, or from the private respondent.

During the trial, Pedro Sepulveda, Sr. died intestate. A petition for the settlement of his estate was filed on May 8, 1975 with the RTC of Cebu, docketed as Special Proceeding No. SF-37. His daughter, petitioner Socorro Sepulveda Lawas, was appointed administratrix of his estate in July 1976. In compliance with the decision of this Court in *Lawas v. Court of Appeals*,[7] docketed as G.R. No. L-45809 and promulgated on December 12, 1986, the deceased was substituted by the petitioner.

To prove the delivery of Dulce's share under the project of partition, the petitioner presented the Affidavit of Consolidation she executed in October 1940 covering thirteen (13) of the twenty-five (25) parcels of land which were deeded to her under

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[6] Records, pp. 9-11.

[7] *Id.* at 331.

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the Project of Partition,[8] as well as the Order[9] dated March 24, 1962 of the then CFI in Special Proceeding No. 778-R, denying Carlota's motion for the reconstitution of the records of the said case, and for the delivery of Dulce's share in the eleven parcels of land. The court likewise declared therein that Dulce, through her grandchildren and her mother, Carlota, had already received her share of the estate from Pedro Sepulveda, Sr. as early as January 10, 1938.

According to the petitioner, Dulce and Pedro Sepulveda, Sr. had a verbal agreement wherein the eleven parcels of land covered by the complaint would serve as the latter's compensation for his services as administrator of Dionisia's estate. Thus, upon the termination of Special Proceeding No. 778-0, and subsequent to the distribution of the shares of Dionisia's heirs, Pedro Sepulveda, Sr. then became the sole owner of Dulce's shares.

The petitioner likewise adduced evidence that Santiago Sepulveda died intestate and was survived by his wife, Paz Velez Sepulveda and their then minor children.[10] It was pointed out that the private respondent failed to implead Paz Sepulveda and her minor children as parties-defendants in the complaint.

It was further claimed that Pedro Sepulveda, Sr. declared the property covered by T.D. No. 18199[11] under his name for taxation purposes since the beginning of 1948.[12] It was likewise alleged that the eleven (11) parcels of land deeded to Dulce under the Project of Partition had been declared for taxation purposes under the name of Pedro Sepulveda since 1974, and that he and his heirs paid the realty taxes thereon.[13]

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[8] *Id.* at 12.

[9] Exhibit "1".

[10] TSN, 11 November 1994, p. 7.

[11] Exhibit "L-3".

[12] TSN, 18 November 1994, pp. 10-11.

[13] Exhibits "17" to "27".

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On June 7, 1993, the trial court rendered judgment[14] in favor of the private respondent. The *fallo* of the decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and against the defendant by declaring that the plaintiff is legally and rightfully entitled to the one half (1/2) portion of the two (2) parcels of land described in paragraph 2 of the Complaint and to the one third (1/3) portion of the nine (9) parcels of land described in paragraph 3 of the complaint as co-owner thereof, and ordering the partition and segregation of the said one half (1/2) portion of the said two (2) parcels of land and of the said one third (1/3) portion of the nine (9) parcels of land, and in the partition thereof, the mechanics of partition outlined in Rule 69 of the Revised Rules of Court must be followed (*Magallon vs. Montejo*, 146 SCRA 282); ordering the defendant Socorro Lawas, as administratrix of the Estate of Pedro Sepulveda, Sr., to deliver to plaintiff the latter's one third (1/3) share of the ₱7,492.00 representing the purchase price of the parcel of land sold to Danao City with interest of twelve [per] centum (12%) per annum (*Reformina vs. Tomol*, 139 SCRA 260) from the date of filing of the Complaint until the amount due to plaintiff is fully paid, to pay attorney's fees to plaintiff's attorney in the sum of ₱10,000.00, and to pay the costs. The counterclaim is hereby dismissed.
>
> SO ORDERED.[15]

The trial court ruled that the private respondent's action for reconveyance based on constructive trust had not yet prescribed when the complaint was filed; that he was entitled to a share in the proceeds of the sale of the property to Danao City; and that the partition of the subject property among the adjudicatees thereof was in order.

The petitioner appealed the decision to the CA, which rendered judgment on January 31, 2002, affirming the appealed decision with modification.

The petitioner now comes to the Court *via* a petition for review on *certiorari*, contending that the appellate court erred as follows:

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[14] Penned by Judge Jose P. Soberano, Jr.

[15] Records, p. 481.

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1. THE COURT OF APPEALS ERRED IN THE INCORRECT APPLICATION OF ART. 494 OF THE CIVIL CODE AND IN UPHOLDING THE REGIONAL TRIAL COURT'S FINDING THAT A TRUST RELATIONSHIP WAS CREATED BETWEEN HEREIN RESPONDENT AND PEDRO SEPULVEDA [SR.].
2. THE COURT OF APPEALS ERRED IN NOT APPLYING THE LAWS ON PRESCRIPTION AND LACHES TO THE FACTS AS PROVEN IN THE CASE AGAINST HEREIN RESPONDENT.
3. THE COURT OF APPEALS ERRED IN UPHOLDING THE FINDING OF THE REGIONAL TRIAL COURT, BRANCH 25 IN DANAO CITY THAT PAYMENT WAS MADE BY DANAO CITY FOR ONE (1) OF THE ELEVEN (11) PARCELS INVOLVED IN THE CASE AND OF WHICH HEREIN RESPONDENT SHOULD BE PAID BY PETITIONER ONE THIRD (1/3) OF THE PURCHASE PRICE.
4. THE COURT OF APPEALS ERRED IN AWARDING MORAL AND EXEMPLARY DAMAGES AND A SHARE IN THE RENTS AND PROFITS OF THE ELEVEN (11) PARCELS TO HEREIN RESPONDENT.
5. THE COURT OF APPEALS ERRED IN UPHOLDING THE REGIONAL TRIAL COURT'S FINDING THAT ATTORNEY'S FEES ARE TO BE AWARDED AND EVEN INCREASING THE AMOUNT THEREOF.[16]

The petition is granted for the sole reason that the respondent failed to implead as parties, all the indispensable parties in his complaint.

As gleaned from the material averments of the complaint and the reliefs prayed for therein, the private respondent, as plaintiff therein, sought the recovery of the ownership and possession of the ten (10) parcels of land and the partition thereof; and for the payment of his share in the proceeds of the sale of the property which Pedro Sepulveda, Sr. sold to Danao City amounting to ₱7,492.00, which Pedro Sepulveda, Sr. claimed was left unpaid. It appears that when the private respondent filed the complaint, his father, Rodolfo Pelaez, was still alive. Thus, when his mother Dulce Pelaez died intestate on March

[16] *Rollo*, p. 24.

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2, 1944, she was survived by her husband Rodolfo and their son, the private respondent. Under Article 996 of the New Civil Code,[17] Rodolfo Pelaez, as surviving spouse, is entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children who has not received any betterment. The rights of the usufructuary are provided in Articles 471 to 490 of the old Civil Code.[18] In *Gamis v. Court of Appeals*,[19] we held that:

> Under Articles 807 and 834 of the old Civil Code the surviving spouse is a forced heir and entitled to a share in usufruct in the estate of the deceased spouse equal to that which by way of legitime corresponds or belongs to each of the legitimate children or descendants who have not been bettered or have not received any share in the one-third share destined for betterment. The right of the surviving spouse to have a share in usufruct in the estate of the deceased spouse is provided by law of which such spouse cannot be deprived and which cannot be ignored. Of course, the spouse may waive it but the waiver must be express.

Section 1, Rule 69 of the Rules of Court provides that in an action for partition, all persons interested in the property shall be joined as defendants.

> Section 1. *Complaint in action for partition of real estate.* — A person having the right to compel the partition of real estate may

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[17] Art. 834. A widower or widow who, on the death of his or her spouse, is not divorced, or should be so by the fault of the deceased, shall be entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children or descendants who has not received any betterment.

If only one legitimate child or descendant survives, the widower or widow shall have the usufruct of the third available for betterment, such child or descendant to have the naked ownership until, on the death of the surviving spouse, the whole title is merged in him.

If the spouses should be separated by a suit for divorce, the result of the suit shall be awaited.

If there should have been a pardon or a reconciliation between the divorced spouses, the survivor shall preserve his or her rights.

[18] Now Articles 566 to 582 of the New Civil Code.

[19] 105 Phil. 768 (1959).

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do so as in this rule prescribed, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all the other persons interested in the property.

Thus, all the co-heirs and persons having an interest in the property are indispensable parties; as such, an action for partition will not lie without the joinder of the said parties.[20] The mere fact that Pedro Sepulveda, Sr. has repudiated the co-ownership between him and the respondent does not deprive the trial court of jurisdiction to take cognizance of the action for partition, for, in a complaint for partition, the plaintiff seeks, first, a declaration that he is a co-owner of the subject property; and, second, the conveyance of his lawful shares.[21] As the Court ruled in *De Mesa v. Court of Appeals*:[22]

The first stage of an action for judicial partition and/or accounting is concerned with the determination of whether or not a co-ownership in fact exists and a partition is proper, that is, it is not otherwise legally proscribed and may be made by voluntary agreement of all the parties interested in the property. This phase may end in a declaration that plaintiff is not entitled to the desired partition either because a co-ownership does not exist or a partition is legally prohibited. It may also end, on the other hand, with an adjudgment that a co-ownership does in truth exist, that partition is proper in the premises, and that an accounting of rents and profits received by the defendant from the real estate in question is in order. In the latter case, "the parties may, if they are able to agree, make partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by all the parties." In either case, whether the action is dismissed or partition and/or accounting is decreed, the order is a final one and may be appealed by any party aggrieved thereby.

The second stage commences when the parties are unable to agree upon the partition ordered by the court. In that event, partition shall be effected for the parties by the court with the assistance of not more than three (3) commissioners. This second phase may also

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[20] *Salvador v. Court of Appeals*, 243 SCRA 239 (1995).

[21] *Vda. De Daffon v. Court of Appeals*, 387 SCRA 427 (2002).

[22] 231 SCRA 773 (1994).

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deal with the rendition of the accounting itself and its approval by the Court after the parties have been accorded the opportunity to be heard thereon, and an award for the recovery by the party or parties thereto entitled of their just shares in the rents and profits of the real estate in question. . . .[23]

In the present action, the private respondent, as the plaintiff in the trial court, failed to implead the following indispensable parties: his father, Rodolfo Pelaez; the heirs of Santiago Sepulveda, namely, Paz Sepulveda and their children; and the City of Danao which purchased the property covered by T.D. 19804 (T.D. No. 35090) from Pedro Sepulveda, Sr. and maintained that it had failed to pay for the purchase price of the property.

Rodolfo Pelaez is an indispensable party he being entitled to a share in usufruct, equal to the share of the respondent in the subject properties. There is no showing that Rodolfo Pelaez had waived his right to usufruct.

Section 7, Rule 3 of the Rules of Court reads:

SEC. 7. *Compulsory joinder of indispensable parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

Indeed, the presence of all indispensable parties is a condition *sine qua non* for the exercise of judicial power. It is precisely when an indispensable party is not before the court that the action should be dismissed. Thus, the plaintiff is mandated to implead all the indispensable parties, considering that the absence of one such party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[24] One who is a

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[23] *Id.* at 780.

[24] See *Borlasa v. Polistico*, 47 Phil. 345 (1925); *People et al. v. Hon. Rodriguez, et al.*, 106 Phil. 325 (1959); *Lim Tanhu v. Ramolete*, 66 SCRA 425 (1975); *Director of Lands v. Court of Appeals*, 93 SCRA 238 (1979); *Alabang Development Corporation v. Valenzuela,* 116 SCRA 261 (1982); *Arcelona v. Court of Appeals*, 280 SCRA 20 (1997); *Metropolitan Waterworks and Sewerage System v. Court of Appeals,* 297 SCRA 287 (1998).

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party to a case is not bound by any decision of the court, otherwise, he will be deprived of his right to due process. Without the presence of all the other heirs as plaintiffs, the trial court could not validly render judgment and grant relief in favor of the private respondent. The failure of the private respondent to implead the other heirs as parties-plaintiffs constituted a legal obstacle to the trial court and the appellate court's exercise of judicial power over the said case, and rendered any orders or judgments rendered therein a nullity.[25]

To reiterate, the absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[26] Hence, the trial court should have ordered the dismissal of the complaint.[27]

IN LIGHT OF ALL THE FOREGOING, the petition is *GRANTED*. The Decisions of the Court of Appeals in CA-G.R. CV No. 43758 and of the Regional Trial Court are *SET ASIDE*. The Regional Trial Court is *ORDERED* to dismiss the complaint without prejudice. No pronouncement as to costs.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Tinga, and *Chico-Nazario, JJ.,* concur.

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[25] *Lozano v. Ballesteros*, 195 SCRA 681 (1991).

[26] *Arcelona v. Court of Appeals, supra.*

[27] *Ibid.*