



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 9, 2023, which reads as follows:

“G.R. No. 231691 (SPOUSES EMERALDO DE GUZMAN, HEIRS OF MARIA ENDENO, represented by Pedro E. Endeno, and AMADOR ESPIRITU, represented by Ruben Espiritu, Petitioners, v. SIMEON ENCELA AND SANTOS ENCELA, Respondents). – The Court NOTES:

- (1) respondent Santos Encela’s Omnibus Motion dated November 18, 2022, stating that their comment on the petition for review on *certiorari* has yet to be filed because their counsel, Atty. Robert L. Labitag, died due to COVID-19, and that since his father and co-respondent Simeon Encela had also died, as shown by the attached machine copy of the latter’s Certificate of Death, he (Santos Encela) is now the sole owner of the subject property in this case;
- (2) the incorporated Entry of Appearance by Atty. Alexis M. Escobedo of Soliven Castillo & Escobedo Law Offices as counsel for respondent Santos Encela, with the client’s conformity, and GRANTS his request that he be furnished copies of all pleadings and notices in this case at their Bicol Branch Office, *i.e.*, 1588 Escurel corner Manook Streets, Brgy. Panganiban, Gubat, Sorsogon and praying that he be allowed ample time to study the instant case and thereafter file the required comment on or before December 2, 2022; and
- (2) respondent Santos Encela’s Comment dated December 1, 2022, on the petition.

Before this Court is a Petition for Review on *Certiorari*¹ (**Petition**) under Rule 45 of the Rules of Court assailing the Decision,² dated September 16, 2016, and the Resolution,³ dated May 8, 2017, of the Court of Appeals (**CA**) in CA-G.R. CV No. 101524.

The CA granted the appeal filed by Simeon Encela (**Simeon**) and Santos Encela (**Santos**) (collectively, the **respondents**) and set aside the Decision,⁴ dated July 30, 2013, of the Regional Trial Court, Branch 54, Gumbat, Sorsogon (**RTC**) in Civil Case No. 2006-02/1940, which granted the Verified Complaint,⁵ January 31, 2006, for quieting of title and recovery of possession and ownership with prayer for the issuance of a temporary restraining order and injunction plus damages (the **Complaint**) filed by Esmeraldo De Guzman (**Esmeraldo**), the Heirs of Maria Endeno, and Amador E. Espiritu (**Amador**) [collectively, the **petitioners**] before the RTC involving a parcel of land with a total area of 12,432 square meters, more or less, situated at Barangay Union, Gubat, Sorsogon (**subject property**).⁶

In its Decision, the CA found the appeal of the respondents meritorious because the RTC granted a relief not prayed for in the pleadings or in excess of what was being sought for by the party by dissolving the co-ownership and partitioning the subject property, in violation of the rule on due process.⁷ Then, the CA proceeded to rule that the petitioners failed to prove that they are the owners of their respective portions in the disputed lot as to entitle them possession of the same because of the alleged existence of a Torrens title in the name of the respondents.⁸

Preliminarily, it is worthy to mention that the Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45.⁹ The Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are “final, binding[,] or conclusive on the parties and upon this [c]ourt”¹⁰ when supported by substantial evidence.¹¹ Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to the Court.¹²

¹ *Rollo*, pp. 11–43.

² *Id.* at 50–62. Penned by Associate Justice Ramon Paul L. Hernando (now a Member of the Court) and concurred in by Associate Justices Jose C. Reyes, Jr. and Stephen C. Cruz.

³ *Id.* at 64–65.

⁴ *Id.* at 86–96.

⁵ *Id.* at 124–129.

⁶ *Id.* at 13, Petition for Review on *Certiorari*.

⁷ *Id.* at 56, CA Decision.

⁸ *Id.* at 57–61.

⁹ RULES OF COURT, Rule 45, Sec. 1.

¹⁰ *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phil.), Inc.*, 364 Phil. 541, 546 (1999).

¹¹ *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002).

¹² *Bank of the Philippine Islands v. Leobrera*, 461 Phil. 461, 469 (2003).

As pointed out by the petitioners, however, this rule admits of exceptions, mainly:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.¹³

The Petition calls upon this Court to review the factual findings of the CA, as an exception to the rule, because the Decision and Resolution of the CA: (1) were based on a misapprehension of facts; (2) went beyond the issues of the case, and the findings were contrary to the admissions of both appellant and appellee; (3) contained findings which were contrary to those of the trial court; and (4) contained findings of fact which were conclusions without citation of specific evidence on which they are based.¹⁴

In this regard, the Court agrees with the petitioners.

The CA found that the petitioners failed to prove that they are the owners of their respective portions in the disputed lot as to entitle them possession of the same, anchoring its findings on the supposed existence of a Torrens title in the name of the respondents, thus:

Here, We hold that appellees' tax declarations and Deeds of Absolute Sale cannot confer a better and superior right for them to possess their respective portions in the disputed land compared to the Torrens title in the name of appellants.

A Torrens title serves as the best evidence of ownership of a land. It is an evidence of an indefeasible title to property in favor of the person in whose name the title appears. It is a conclusive evidence of ownership of the land described therein. Further, a titleholder is entitled to all the attributes of ownership of the property, including possession. Thus, as aptly held by the Supreme Court in *Arambulo v. Gungab*, the "age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof."¹⁵ (Citations omitted)

¹³ *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990).

¹⁴ *Rollo*, pp. 23-24, Petition for Review on *Certiorari*.

¹⁵ *Id.* at 59, CA Decision.

A perusal of the evidence presented, however, would reveal that it is bereft of any Torrens title issued in the name of any of the respondents.

The subject property is covered by Original Certificate of Title No. P-2926, as stated in the Commissioner's Report by Engr. Rañon quoted by the CA in its Decision:

4. That the subject property of this survey is identified as Lot No. 2355 Cad. 308-D, Gubat Cadastre, located at Union, Gubat, Sorsogon with an area of TWELVE THOUSAND FOUR HUNDRED THIRTY TWO (12,432) SQUARE METERS titled in the name of PEDRO ENCELA covered by **Original Certificate of Title No. P-2926**.¹⁶ (Emphasis supplied)

That there is no Torrens title issued in the name of Simeon and Santos with respect to the subject property is further supported by the testimony of Engr. Rañon:

Q: By the way, Engineer, do these parcels of land has an existing title as of now?

A: The whole area of Lot No. 2355, Cad 308-D, was covered by an Original Certificate of Title in the name of the plaintiffs.

x x x x

Q: And no subsisting title yet like transfer certificate of title?

A: None yet, Your Honor.¹⁷ (Emphasis supplied)

Furthermore, gleaned from the testimonies of the respondents, they took possession of the subject property because they believed it to be bought by the money Simeon was sending his father when he was still in Palawan. Santos, on the other hand, anchors his supposed ownership by virtue of the Deed of Extra-Judicial Settlement with Waiver of Rights¹⁸ executed in 2004 wherein the subject property was given in his favor by Socorro and Simeon, and the tax declaration under ARP No. 2002-07-041-0628¹⁹ declaring him as the owner of the subject property. Otherwise stated, the respondents never based their claim of ownership on a Torrens title because there was never one issued in their name.

As correctly pointed out by the petitioners, the respondents did not present any Torrens title in their favor, and this finding of fact by the CA is

¹⁶ Id. at 53, CA Decision.

¹⁷ TSN, October 9, 2007, p. 4.

¹⁸ *Rollo*, p. 158.

¹⁹ Id. at 131.

contrary to that found by the trial court and is a conclusion without citation of specific evidence on which it is based. Clearly, the finding that a Torrens title in the name of the respondents exists is a result of the misapprehension of facts by the CA, hence, the factual findings of the lower courts can be reviewed in this present Petition.

Given the foregoing, the Court now proceeds to determine the claims of the petitioners and the respondents.

At this juncture, it appears the petitioners all relied on the Extrajudicial Partition of Real Properties executed solely by Apolinaria to claim their ownership of the respective portions of the subject property. However, as correctly found by the RTC, the Extrajudicial Partition of Real Properties was executed without the participation of all the heirs of Pedro. Thus, the Extrajudicial Partition of Real Properties executed solely by Apolinaria did not have an effect of partitioning the estate of Pedro.

Title or rights to a deceased person's property are immediately passed to his or her heirs upon death. The heirs' rights become vested without need for them to be declared "heirs." Before the property is partitioned, the heirs are co-owners of the property.²⁰ Hence, with the inefficacy of the Extrajudicial Partition of Real Properties, the subject property remains to be co-owned by the heirs of Pedro and Apolinaria, as found by the RTC.

Esmeraldo bought the interests of the Heirs of Leon in the subject property as evidenced by the notarized Extrajudicial Settlement of Estate of Deceased Person with Sale. Amador anchors his ownership in the notarized Deed of Absolute Sale of Real Property where he bought the interest of Abundia in the subject property.

A sale of the entire property by one co-owner without the consent of the other co-owners is not null and void. However, only the rights of the co-owner-seller are transferred, thereby making the buyer a co-owner of the property.²¹

Hence, contrary to respondents' assertion that the documents presented by the petitioners are inefficacious, the Extrajudicial Settlement of Estate of Deceased Person with Sale and the Deed of Absolute Sale of Real Property are binding and valid between the parties, and have the effect of transferring the interests of the Heirs of Leon and the interest of Abundia with respect to the subject property to Esmeraldo and Amado, respectively, to the extent of

²⁰ *Heirs of Gregorio Lopez vs. Development Bank of the Phils.*, 747 Phil. 427, 437 (2014).

²¹ *Bailon-Casilao v. Court of Appeals*, 243 Phil. 888 (1988).

the portion which may be allotted to them in the division upon the termination of the co-ownership.

The unnotarized Extrajudicial Settlement with Partition, on the other hand, is not binding and valid since Simeon, as a co-heir, had no participation in it. Hence, the interests of the Heirs of Maria are limited to what Maria would be able to inherit from Pedro and Apolinaria.

On the other hand, aside from the bare assertions and self-serving claims of Simeon, there was no evidence presented to prove that the subject property was bought using the money he allegedly sent to his father. For his part, Santos anchors his ownership solely on the Deed of Extra-Judicial Settlement with Waiver of Rights. Unfortunately for him, the said Deed is spurious and falsified when Socorro and Simeon claimed to be the only surviving heirs of Pedro and Apolinaria, when in fact, they were not, as also admitted by Santos in his testimony.

A contract that violates the Constitution and the law is null and void and vests no rights and creates no obligations. It produces no legal effect at all.²² Hence, Santos is not entitled to the ownership of the whole subject property, except to the extent of his inheritance by right of representation from the now deceased Simeon.

In as much as only preponderance of evidence is the quantum of evidence required for a civil case to prosper, the Court does not find any cogent reason to overturn the judgment of the RTC finding merit in the petitioners' Complaint over respondents' baseless claims.

With respect to the claim of the CA and the respondents that the RTC granted a relief not prayed for in the pleadings or in excess of what was being sought for by the party by dissolving the co-ownership and partitioning the subject property, the Court is not persuaded.

To reiterate, the prayer of the petitioners in their Complaint includes: (1) quieting of title; (2) recovery of possession and ownership; and (3) award of damages.

In its Decision, the RTC never dissolved the co-ownership and partitioned the subject property, subject to the confirmation of the regular transactions entered into by some of the heirs.

That the RTC never dissolved the co-ownership is evidenced by the dispositive portion of its Decision, where it expressly provides:

²² *Fullido v. Grilli*, 781 Phil. 840, 841 (2016).

b) **DECLARING** that lot 2355, Cad 308-D, Gubat Cadastre situated at Barangay Union, Gubat, Sorsogon with an area of 12,432 square meters to be co-owned by the heirs of the late spouses Pedro Encela and Apolinaria Estareja Encela; x x x.²³ (Emphasis supplied)

In this regard, the Court adopts the ratiocination of the RTC, in its Order,²⁴ dated September 6, 2013, denying the Motion for Reconsideration of herein respondents, when it explained that:

Consequently, the court did not actually partition the property in question contrary to the claim of defendants but, (sic) it merely declared the extent of the co-ownership of the parties and other heirs over the property and fruits of the property in question, aware that actual partition maybe (sic) filed by the parties in a separate proceeding utilizing the decision of the court as basis.²⁵

The RTC likewise did not partition the subject property since it did not state the exact metes and bounds of the portion owned by the co-owners.²⁶ The RTC simply stated the general proportion of the shares of each co-owner on the basis of their number.

For an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.²⁷

In this case, the evidence presented is sufficient to prove the existence of the requisites for an action to quiet title to prosper.

An action to quiet title or to remove the clouds over a title is a special civil action governed by the second paragraph of Section 1, Rule 63 of the Rules of Court. Specifically, an action for quieting of title is essentially a common law remedy grounded on equity. The competent court is tasked to determine the respective rights of the complainant and other claimants, not only to put things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the

²³ Rollo, p. 95, RTC Decision.

²⁴ Id. at 181-182.

²⁵ Id. at 182, RTC Order.

²⁶ Section 11, Rule 69 of the Rules of Court provides:

Sec. 11. The judgment and its effect; copy to be recorded in registry of deeds. — If actual partition of property is made, the judgment shall state definitely, by metes and bounds and adequate description, the particular portion of the real estate assigned to each party, and the effect of the judgment shall be to vest in each party to the action in severalty the portion of the real estate assigned to him.

²⁷ *Mananquil v. Moico*, 699 Phil. 120, 127 (2012).

property dissipated, and he could afterwards without fear introduce: the improvements he may desire, to use, and even to abuse the property as he deems best.²⁸

The petitioners have sufficiently shown their respective interests in the subject property. Finding that the respondents have no basis to claim ownership over the whole subject property aside from the spurious and falsified Deed of Extra-Judicial Settlement with Waiver of Rights, the RTC correctly declared ARP No. 2002-07-041-0628 in the name of defendant Santos, and all other deeds and documents pertaining to the same, null and void as they cloud the title of the co-heirs. Consequently, the RTC held that the petitioners should be able to recover possession over the subject property to the extent of their co-ownership as showed by the evidence presented, as already discussed.

Evidently, the judgment of the RTC is consistent with the prayers of the petitioners in their Complaint. It neither dissolved the co-ownership nor partitioned the subject property.

Nonetheless, given that all the heirs still enjoy co-ownership over the subject property, the Court finds that the RTC erred in ordering the respondents to vacate the subject property since the respondents are still entitled to possess and enjoy the same as co-owners.

In a co-ownership, the undivided thing or right belong to different persons, with each of them holding the property *pro indiviso* and exercising his or her rights over the whole property. Each co-owner may use and enjoy the property with no other limitation than that he shall not injure the interests of his co-owners. The underlying rationale is that until a division is actually made, the respective share of each cannot be determined, and every co-owner exercises, together with his co-participants, joint ownership of the *pro indiviso* property, in addition to his use and enjoyment of it.²⁹

Finally, respondents also argue that for failure to implead the other co-heirs as indispensable parties, the Decision of the RTC is void.

In sum, in suits to recover properties, all co-owners are real parties in interest. However, pursuant to Article 487 of the Civil Code and the relevant jurisprudence, any one of them may bring an action, any kind of action for the recovery of co-owned properties. Therefore, only one of the co-owners, namely the co-owner who filed the suit for the recovery of the co-owned property, is an indispensable party thereto. The other co-owners are not

²⁸ Id.

²⁹ *Quijano v. Atty. Amante*, 745 Phil. 40, 49 (2014).

indispensable parties. They are not even necessary parties, for a complete relief can be afforded in the suit even without their participation, since the suit is presumed to have been filed for the benefit of all co-owners.³⁰

Although the Complaint was instituted by the petitioners mistakenly claiming sole ownership over their respective portions of the subject property, the Court finds that the action ultimately benefitted the other co-heirs, hence, remanding the case to the RTC to implead the indispensable parties at this point would only entail unnecessary delay to the resolution of the case, especially when the RTC Decision already redounds to the benefit of all the co-owners.

WHEREFORE, the Petition is **GRANTED**. The Decision, dated September 16, 2016, and the Resolution, dated May 8, 2017, of the CA in CA-G.R. CV No. 101524 are **SET ASIDE**. The Decision, dated July 30, 2013, of the RTC is **REINSTATED with MODIFICATION** to the effect that respondent Santos Encela is not ordered to vacate the subject property since he is still entitled to possess and enjoy the same, provided that he shall not injure the interests of his co-owners.

SO ORDERED.”

By authority of the Court:

~~MISAEL DOMINGO C. BATTUNG III~~
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court *11/15/23*

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³⁰ *Carandang v. Heirs of De Guzman*, 538 Phil. 319, 338 (2006).

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