

FELIZA MIEN VDA. DE CHAVEZ, FELIX MIEN Y OROSA, SANITA MIEN-CERVANTES, ENGRACIA MIEN VDA. DE CASIANO, JOSEFINA MIEN VDA. DE CASIANO, WILFREDO MIEN Y OROSA, AND ELMERANDO MIEN Y ...

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated January 30, 2013 and the Order[2] dated May 27, 2013 of the Regional Trial Court, Fifth Judicial Region, Branch 56, Libmanan, Camarines Sur, in Civil Case No. L-1024 for Quieting of Title, Declaration of Ownership, Recovery of Possession and Damages, entitled “Feliza Mien Vda De Chavez, et al., Plaintiffs, vs. Agustin Mien y Orosa, et al., Defendants.”, the dispositive portions of which read:

Decision dated January 30, 2013:

“WHEREFORE, in view of the foregoing, decision is hereby rendered in favor of the plaintiffs and against the defendant Agustin Mien, declaring the plaintiffs as co-owners and legal possessors of Lot No. 9731 consisting more or less, of 32.8514 hectares located in Barangay Salvacion, Ragay Camarines Sur and the 3.000 hectares of land in Barangay Laguio, Ragay, Camarines Sur jointly with the defendant Agustin Mien.

The Court likewise hereby directs that:

- Defendant reconvey and turn over the properties to the plaintiffs with respect to their respective shares by executing the corresponding deed of partition and reconveyance;
- The Municipal Assessor of Ragay, Camarines Sur cancel the Tax Declarations of the two subject properties in the name of defendant Agustin Mien and to cause the declaration of the same in the name of all the plaintiffs and the defendant, indicating therein all their names as co-owners, and thereafter to forward copies of the corrected tax declarations to the Office of the Provincial Assessor of Camarines Sur;

Defendant Agustin Mien is likewise ordered to pay the following damages, to wit: Compensatory Damages of Php50,000.00; Moral Damages of Php100,000.00 in favor of each plaintiff; Attorney's Fees of Php50,000.00; and the reimbursement of the Filing and Docket Fees paid by plaintiff (sic).

SO ORDERED.[3]”

Order dated May 27, 2013:

“WHEREFORE, in view of the foregoing considerations, the Motion for Reconsideration is hereby DENIED.[4]”

The facts are:

Plaintiffs-appellees Feliza Mien Vda. de Chavez, Felix Mien y Orosa, Sanita Mien-Cervantes, Engracia Mien Vda. de Casiano, Josefina Mien Vda. de Casiano, Wilfredo Mien y Orosa, Elmerando Mien y Orosa (collectively referred to as plaintiffs-appellees for brevity) and defendant-appellant Agustin Mien y Orosa (Agustin for brevity) are siblings.[5] Upon the death of their parents, plaintiffs-appellees entrusted the administration of the following lots which they inherited from their parents, to their eldest brother, defendant-appellant Agustin:

A parcel of land with Lot No. 9731 with an area of 32.8514 hectares, bounded on the North by lots 9738, 9740, 9788; on the East by lots 10333, 10332, 10331; on the South by lot 9733; and on the West by lot 9730, located in Brgy. Salvacion, Ragay, Camarines Sur (Salvacion property for brevity); and

A parcel of land consisting of 3.000 hectares, bounded on the North by Laguio Creek; on the East by Maura Quini; on the South by the property of Santiago Apad; and on the West by the property of Lorenzo Apad, located in Brgy. Laguio, Ragay, Camarines Sur (Laguio property for brevity).[6]

All these properties were declared for tax purposes in the name of their parents. However, some tax declarations could not be located.

The documents of ownership of said properties were likewise kept by defendant-appellant Agustin.[7]

The controversy began sometime in 2000 when plaintiffs-appellees asked defendant-appellant Agustin for the survey and partition of the two (2) lots.[8] Initially, the latter ignored their request, but when plaintiff-appellee Wilfredo Mien sought his permission to subdivide the lots, although reluctantly, acceded and gave plaintiff-appellee Wilfredo Mien a Power of Authority[9] for the partition of Lot No. 9731.[10] They found out that defendant-appellant Agustin was not only an administrator but an owner of the said properties. They confronted him about the transfer and they asked for the return of the documents of ownership for the partition of the properties, but he refused.[11] Efforts to settle the dispute were made, and the matter was even referred to the Lupon Tagapamayapa of Brgys. Salvacion and Laguio,[12] but no settlement was reached.[13] Thus, a Complaint for Quieting of Title, Declaration of Ownership, Recovery of Possession and Damages[14] was filed by plaintiffs-appellees against defendant-appellant Agustin. Defendant Eldebrando Abengoza (Abengoza for brevity), the former Municipal Assessor of Ragay, Camarines Sur, was also impleaded in the complaint for allegedly conspiring with defendant-appellant Agustin in transferring the properties in his name.

Upon receipt of the Summons,[15] defendant-appellant Agustin and defendant Abengoza filed an Answer with Special and Affirmative Defense and Counterclaim.[16] Defendant-appellant Agustin denied the claim of co-ownership and alleged that through a series of sale transactions, he became the owner of the 3.000-hectare lot.[17] He explained that after the death of his father, his mother and her children sold[18] the 3-hectare lot to Lolito Cervantes (Lolito for brevity) and Leoncio Chavez (Leoncio for brevity), the husbands of plaintiffs-appellees Sanita Mien (Sanita for brevity) and Feliza Mien (Feliza for brevity),[19] respectively. On March 28, 1977, Sanita and Feliza mortgaged said lot to him and executed a “Deed of Sale with Right to Repurchase”[20] in his favor, until finally the said lot was sold[21] to him by Spouses Lolito and Sanita Cervantes and Leoncio and Feliza Chavez.[22] The various tax declarations covering said property as reflected in the Book of Assessment Records in the Office of the Municipal Assessor of Ragay, Camarines Sur, would prove these transfers.[23] Meanwhile, he obtained ownership of Lot No. 9731 through continuous, open, adverse and uninterrupted possession and occupation as absolute owner thereof.[24] The lot covered by the Field Appraisal and Assessment Sheet (FAAS) or Tax Declaration No. 97-033-00217, issued in his name, was identical to Lot No. 9731 (Salvacion property), and was found as a “newly discovered property” as per cadastral survey conducted by the DENR.[25] This means that the FAAS or the Tax Declaration involved a property with no transfers but pertained to an initial assessment/appraisal of a newly discovered property.[26]

In the same pleading, defendant Abengoza denied his liability claiming that the statement/declaration made by the alleged owner of the property is acceptable pre se because the issuance of a FAAS or Tax Declaration is a ministerial function of a Municipal Assessor.[27] Consequently, the latter could not look into the intrinsic validity of a deed of conveyance of a parcel of land subject to tax for the purpose of the issuance of such tax declaration.[28]

On May 25, 2005, pre-trial conference was held, but the parties failed to arrive at an amicable settlement. However, parties agreed on the following:

- 1) Identity of the two (2) subject properties;
- 2) That Spouses Teodoro and Rosario Mien were their parents;
- 3) The Laguio property was previously declared for Tax purposes in the name of their parents;
- 4) Jocelyn Mien Urolfo is the daughter of defendant-appellant Agustin;
- 5) Plaintiff-appellee Sanita Mien-Cervantes is the wife of Lolito Cervantes, while plaintiff-appellee Feliza Mien Vda. de Cervantes is the wife of Leoncio Chavez;
- 6) Existence and due execution of a SPA in favor of Wilfredo Mien and Rosalinda M. Ibaretta by defendant-appellant Agustin regarding the Salvacion property; and
- 7) The SPA refers to the Salvacion property.[29]

Thereafter, trial ensued.

Plaintiffs-appellees Engracia Mien Vda. de Casiano[30], Wilfredo Mien[31] and Josefina Mien Vda. de Casiano[32] identified the Salvacion and Laguio properties left by their parents, and corroborated each others' testimonies on material points. They narrated how their brother, defendant-appellant Agustin, whom they trusted with the administration of the subject properties appropriated the same by declaring them in his name and depriving them of their shares. They exerted efforts to resolve the dispute before the case was filed in court.

Witnesses Simeon Mien[33] and Salvador Paz[34], nephews of Teodoro Mien, corroborated the claim of plaintiffs-appellees and confirmed that the latter's parents, Teodoro and Rosario Mien, were the owners of the Salvacion property and they know this because they have been farmers on said land since they were 12 and 15 years old, respectively. Witness Simeon Mien further stated that he was appointed as the caretaker of subject properties for more than ten (10) years and he only left when defendant-appellant Agustin told him that he was taking possession of the land.[35]

Meanwhile, plaintiffs-appellees Sanita Mien-Cervantes and Feliza Mien Vda. de Chavez were presented to rebut the allegation that the Laguio property was sold to defendant-appellant Agustin. They testified that their mother never sold the Laguio property to their respective husbands, Lolito Cervantes and Leoncio Chavez.[36] They and their respective husbands or any of their siblings did not sell said property to their brother, defendant-appellant Agustin.[37]

The last corroborating witness for plaintiffs-appellees was Judie Mien, the son of defendant-appellant Agustin. He testified that his father told him that his grandparents' properties in Salvacion and Laguio are owned by the siblings (referring to the parties in this case) and would be divided among them.[38] During his cross-examination, he said that he does not have any ill-feelings towards his father, but he testified against him because he does not own the land and he refuses to give his share in that land.[39]

On his part, defendant-appellant Agustin denied the claims of plaintiffs-appellees and testified[40] that: the

Laguio property was previously owned by his father Teodoro Mien; their mother, Rosario Mien, asked from them (referring to himself and his siblings) to sell the said property to Lolito and Leoncio, the husbands of his sisters Sanita and Feliza, and prepared a deed of sale which all of them signed; his sisters, Sanita and Feliza, subsequently mortgaged this property to him through a deed of sale with right to repurchase; he became the owner of the said property after he purchased it from Sps. Lolito and Sanita and Sps. Leoncio and Feliza; he also owns the Salvacion property because he was the one who developed it in 1955; and, the Tax Declaration covering this property in his name also proved that he is the owner thereof.

On cross-examination, he stated[41] that: the Laguio property was previously owned by their parents, but when their parents died, it was not divided among them; he only paid taxes for the Salvacion property in 1998 because from 1955 to 1960 there were rebels (hukbalahap and NPA) in the area, so he never went there; but even if he did not visit the property, he assigned his people there; he developed the Salvacion property in 1955, before he started his studies from 1964 to 1967; the Salvacion property was discovered as his property based on the cadastral survey of the DENR; in his SPA, he did not agree to subdivide the Salvacion property but he merely authorized the completion of all the requirements from the appropriate offices for the subdivision of the property; he did not appear before the Lupon of the barangay because they would only shout at each other and nothing would happen for the resolution of the case.

To corroborate his statements, defendant-appellant Agustin presented Natividad Campit, Engineer Samuel O. Ada, Wenifreda Salcedo and Theresa Maria Balmeo, as witnesses.

Natividad Campit, the alleged caretaker of the Salvacion property, testified[42] on the ownership of said property and identified defendant-appellant Agustin as the owner/possessor of the land consisting of 32 hectares and located adjacent to the property of her in-laws.

Engineer Samuel O. Ada, the Acting Municipal Assessor of Ragay, Camarines Sur, was presented to identify the Tax Declarations pertaining to the Salvacion property in the name of defendant-appellant Agustin, and the Tax Declarations covering the Laguio property that was issued in the name of Teodoro Mien and the subsequent Tax Declarations of the same property in the name of Lolito Cervantes and Leoncio Chavez, and then later in the name of defendant-appellant Agustin and his wife Fe Juri.[43] He explained[44] that before a Tax Declaration is cancelled and transferred to another person's name, a deed of conveyance such as a deed of sale or a deed of donation is necessary. However, the deeds of conveyance presented to their office are not kept on file because after the approval by the Municipal Assessor, the same are forwarded to the Provincial Assessor. After the latter approves the same, only the tax declaration issued in the name of the newly declared owner would be returned to their office. Their office followed this procedure regarding the Tax Declarations issued in the name of defendant-appellant Agustin, but he has no personal knowledge about the preparation of these documents.

During his cross-examination, he stated[45] that the Tax Declarations are on file and he reviewed the same, but he was not yet an employee of the Municipal Assessor's Office when the Tax Declarations in question were prepared. He also does not know how the tax declaration in the name of Teodoro was transferred to Lolito and Leoncio, then later on issued in the name of defendant-appellant Agustin and Fe Juri.

Wenifreda Salcedo, the Local Assessment Officer IV from the Provincial Assessor's Office, Camarines Sur, was also presented to identify several Tax Declarations covering the Salvacion and Laguio properties, and to confirm that there exists in their records such Tax Declaration issued in the name of defendant-appellant Agustin and his wife Fe Juri.[46]

Theresa Maria Balmeo, the Records Officer of DENR-CENRO, Sipocot, Camarines Sur, testified that she is the custodian of the centralized records of the CENRO, and in the course of her testimony she identified the location

of Lot No. 9731 (Salvacion property) from the cadastral maps she brought in court and confirmed that defendant-appellant Agustin became the claimant thereof sometime in 1995 as per List of Claimants found in their records.[47]

On January 30, 2013, the lower court rendered the assailed decision.[48] Aggrieved, defendant-appellant Agustin filed a Motion for Reconsideration[49] but the same was denied.[50]

Hence, this appeal stating that the lower court committed grave reversible error when[51]:

I.

IT CONCLUDED THAT THE NON-PAYMENT BY THE DEFENDANT-APPELLANT OF REAL PROPERTY TAX FOR THE PROPERTY IN SALVACION, RAGAY, CAMARINES SUR FROM 1955 ONWARDS BETRAYS HIS CLAIM OF ADVERSE POSSESSION AND OWNERSHIP OVER THE SAID PROPERTY.

II.

IT FAILED TO APPRECIATE OR WAS MISLED IN THE APPRECIATION OF EXHIBITS “13”, “14”, AND “15”.

III.

IT CONCLUDED THAT BY SIGNING THE SPECIAL POWER OF ATTORNEY (EXHIBIT “A”) DEFENDANT-APPELLANT AGUSTIN MIEN IMPLIEDLY ADMITTED THAT THE PROPERTY SITUATED IN SALVACION, RAGAY, CAMARINES SUR IS OWNED UNDER CO-OWNERSHIP BY THE HEIRS OF TEODORO AND ROSARIO MIEN.

IV.

IN GIVING CREDENCE AND PROBATIVE VALUE TO THE ALLEGED LETTER OF JOCELYN MIEN OROLFO WHICH IS A HEARSAY EVIDENCE.

V.

IN ITS APPRECIATION OF THE CREDIBILITY OF THE TESTIMONY OF JUDIE MIEN, SON OF DEFENDANT-APPELLANT AGUSTIN MIEN.

VI.

IN AWARDING DAMAGES TO THE PLAINTIFFS WHO ARE NOT ENTITLED THERETO.

The appeal is without merit.

The main issue for resolution involves the determination of who between the parties is the owner of the Salvacion and Laguio properties or the subject properties. It is the contention of defendant-appellant Agustin that he is the exclusive owner of the subject properties, and he claims that the lower court committed an error in its appreciation of the evidence when it found that the same are co-owned by him and his siblings.

Starting with the basic principle that “the one who alleges a fact has the burden of proving the same,”[52] the burden of proof now rests upon defendant-appellant Agustin to prove his exclusive ownership over the subject properties. Having the burden of proof, it is the duty of defendant-appellant Agustin to present evidence on the facts in issue necessary to prove the truth of his claim or defense by the amount of evidence required by law.[53]

In civil cases, the quantum of evidence required is preponderance of evidence.[54] Preponderance of evidence means evidence which is of greater weight, or more convincing than that which is offered in opposition to it.[55] Stated differently, it is the kind of evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[56] Guided by this doctrine, this Court thoroughly reviewed the records and found defendant-appellant Agustin's evidence as wanting. The following testimonies lend support to this finding, to wit:

“Transcript of Stenographic Notes (TSN) of the cross-examination of the witness Agustin Mien taken on May 18, 2012:

Atty. Borja

Q:

Mr. witness, you will agree with me that the property in Laguio, subject matter of this complaint was originally owned by your parents Teodoro and Rosario Mien?

A:

Yes, sir.

xxx

xxx

xxx

Q:

Mr. witness, when your father died the property left by your father was not subdivided between you and your brothers and sisters?

A:

Not yet.

Q:

When your mother died also, you said after martial law, there was also no subdivision of the property left by your mother and your father?

A: None.[57]

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xxx"

“TSN of the direct examination of the witness Agustin Mien taken on May 18, 2012:

Atty. Mapa

Q:

Who is the owner of this property situated in Brgy. Salvacion, Ragay, Camarines Sur?

A:

I am

xxx

xxx

xxx

Q: How were you able to own this property in Salvacion, Ragay, Camarines Sur?

A: I was able to develop it.

xxx

xxx

xxx

Q: So when was that if you can still recall you started to develop the property?

A: 1955.[58]

xxx

xxx

xxx"

“TSN of the cross-examination of the witness Agustin Mien taken on May 18, 2012:

Atty. Borja

Q:

You identified a tax declaration which you said is in your name, you will agree with me that you only cause the tax declaration of the property in 1998? (Referring to the Salvacion property)

XXX

XXX

XXX

A: Yes, sir.

XXX

XXX

XXX

Q:

In fact you said earlier in your testimony that you were already going to this property in 1955, is that correct?

A:

During the period of 1955 to 1960 I do (sic) not go to that place because of hukbalahap and the NPA's.

XXX

XXX

XXX

Q:

In other words, that property you are saying and you have identified that property in Salvacion, Ragay, Camarines Sur, you have not visited that between the period of 1955 to 1960?

A:

Yes, sir. I have not been there during that period but I have my people there.

Q:

You said that you could not be there but you have people there, so after 1960 you were already going to that place?

XXX

xxx

xxx

A:

No, because after 1960 is (sic) the height of hukbalahap and NPA's and the presence of Commander Roger.

Q:

In 1970 you did not still go to that place in Salvacion, Ragay, Camarines Sur?

A: How can I visit that place in 1964 because I was still studying in Iriga.

Q: In 1970?

A: No, because I was still studying.

Q: Can you tell us the time when your father died?

A: 1954

Q: And it was in 1955 when you started claiming ownership of the property in Salvacion consisting of 32 hectares?

A: I was developing the property.

Q: You told us that you started developing the property in 1955 at that time you were still studying?

A: My studies started in 1964 to 1967

Q: In 1955 you were still studying?

A: Not yet because I started my studies in the year 1964.[59]

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xxx"

Moreover, the authorization[60] executed by defendant-appellant Agustin in favor of his brother Wilfredo allowing the latter to facilitate the subdivision of the Salvacion property among the siblings is uncharacteristic of a person exercising exclusive ownership on a property.

These admissions as well as the inconsistency in the testimonies of defendant-appellant Agustin not only cast doubt on his claim of exclusive ownership over the subject properties but also failed to debunk the conclusion of the lower court that co-ownership exists among the parties.

This existing co-ownership among the parties stemmed from intestate succession.[61] As heirs of Teodoro and Rosario Mein, the siblings inherited and became co-owners of the subject properties left by their deceased parents.[62] Significantly, when a situation arises where one of the heirs tries to appropriate the entire property owned in common to the exclusion of his co-heirs, like in this case, the law sanctions the creation of an implied trust to protect the interest of the others.[63] Implied trust, which can either be a resulting or constructive trust, comes into being by operation of law, either through implication of an intention to create a trust as a matter of law or through the imposition of the trust irrespective of, and even contrary to, any such intention.[64] Likewise, constructive trust arises contrary to the intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold.[65] Consistently, it is raised by equity in respect of property, which has been acquired by fraud, or where although acquired originally without fraud, it is against equity that it should be retained by the person holding it.[66] As correctly observed by the lower court, the defendant-appellant is a mere trustee of the subject properties, as such, the partition of the same and distribution thereof to his other siblings is justified, to wit:

“xxx Based from the testimonies of at least three of the seven plaintiffs, together with the unbiased testimony of Simeon Mien and Judie Mien that the subject properties were really owned by parents of the parties, the intent of the parties was for defendant Agustin Mien to conveniently administer their co-owned properties.

‘On the other hand, a constructive trust is a trust “raised by construction of law, or arising by operation of law.” In a more restricted sense and as contradistinguished from a resulting trust, a constructive trust is “a trust not created by any words, either expressly or impliedly evincing a direct intention to create a trust, but by the construction of equity in order to satisfy the demands of justice. It does not arise by agreement or intention but by operation of law.”²⁴

“If a person obtains legal title to property by fraud or concealment, courts of equity will impress upon the title a so-called constructive trust in favor of the defrauded party.” A constructive trust is not a trust in the technical sense.²⁵

xxx

There is a rule that a trustee cannot acquire by prescription the ownership of property entrusted to him, or that an action to compel a trustee to convey property registered in his name in trust for the benefit of the cestui qui trust does not prescribe, or that the defense of prescription cannot be set up in an action to recover property held by a person in trust for the benefit of another or that property held in trust can be recovered by beneficiary regardless of the lapse of time.

Defendant Agustin Mien is just a trustee of his siblings, and by reason of such status, he is now compelled to return what is rightfully theirs. The two properties should then be equally divided among the eight (8) siblings,

each one of them having a right thereon as co-owner. xxx”[67]

With respect to the damages awarded by the lower court, this Court finds that the award of compensatory damages is baseless. To note, compensatory damages may only be awarded for such pecuniary loss duly proven by the claimant.[68] No evidence was presented here. On the other hand, moral damages can be granted for the mental anguish and serious anxiety suffered by the plaintiffs-appellees in engaging in litigation with their own brother, defendant-appellant Agustin, more so for the wounded feelings they felt when the subject properties were appropriated without their consent by the brother they trusted.[69] The payment of attorney's fees is also allowed since through the unjustified action of defendant-appellant Agustin, plaintiffs-appellees were compelled to litigate and incur expenses to protect their legitimate interest.[70]

WHEREFORE, premises considered, the appeal is DENIED. The assailed Decision dated January 30, 2013 and the Order dated May 27, 2013 of the Regional Trial Court, Branch 56, Libmanan, Camarines Sur, in Civil Case No. L-1024 are hereby AFFIRMED WITH MODIFICATION in that the award of compensatory damages in the amount of Php 50,000.00 for each plaintiff-appellee, is deleted.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Bruselas, Jr., A.D., and Gaerlan, S.H., JJ., concur.

[1] Records, pp. 254-267

[2] Records, pp. 291-292

[3] Records, pp. 266-267

[4] Records, P. 292

[5] Records, p. 2

[6] Records, p. 2

[7] Records, p. 2

[8] Records, p. 3

[9] Records, p. 3

[10] Records, p. 110

[11] Records, p. 3

[12] Records, pp. 112-118

[13] Records, p. 3

[14] Records, pp. 1-5

- [15] Records, p. 17
- [16] Records, p. 19-25
- [17] Records, p. 20
- [18] Records, p. 238
- [19] Records, p. 20
- [20] Records, p. 237
- [21] Records, p. 236
- [22] Records, p. 20
- [23] Records, p. 22
- [24] Records, p. 21
- [25] Records, p. 21
- [26] Records, pp. 21
- [27] Records, pp. 23
- [28] Records, pp. 23
- [29] Records, pp. 43-46
- [30] Transcript of Stenographic Notes (TSN) of the witness Engracia Mien-Casiano taken on November 7, 2005, pp. 4-18
- [31] TSN of the witness Wilfredo Mien taken on July 10, 2006, pp. 3-17 and September 13, 2006, pp. 2-14
- [32] TSN of the witness Josefina Mien-Casiano taken on July 9, 2007, pp. 2-9
- [33] TSN of the witness Simeon Mien taken on August 15, 2005, pp. 3-11
- [34] TSN of the witness Salvador Paz taken on August 22, 2005, pp. 3-9
- [35] TSN of the witness Simeon Mien taken on August 15, 2005, pp. 3-11
- [36] TSN of the witness Sanita Mien-Cervantes taken on September 3, 2007, pp. 8-10 and TSN of the witness Feliza Mien-Chavez taken on November 7, 2007, pp. 3-5
- [37] TSN of the witness Sanita Mien-Cervantes taken on September 3, 2007, pp. 8-10 and TSN of the witness Feliza Mien-Chavez taken on November 7, 2007, pp. 3-5
- [38] TSN of the witness Judie Mien taken on February 11, 2008, pp. 2-6
- [39] TSN of the witness Judie Mien taken on June 23, 2008, pp. 2-15
- [40] TSN of the witness Agustin Mien taken on April 13, 2011, pp. 3-9, August 23, 2011, pp. 2-17 and May 18, 2012, pp. 2-9
- [41] TSN of the witness Agustin Mien taken on May 18, 2012, pp. 9-26
- [42] TSN of the witness Natividad Campit taken on February 12, 2009, pp. 2-12

- [43] TSN of the witness Engineer Samuel Ada taken on August 13, 2009, pp. 2-27
- [44] TSN of the witness Engineer Samuel Ada taken on August 13, 2009, pp. 2-27
- [45] TSN of the witness Engineer Samuel Ada taken on October 19, 2009 pp. 2-10
- [46] TSN of the witness Wenifreda V. Salcedo taken on November 23, 2009, pp. 3-9 and TSN of the witness Wenifreda V. Salcedo taken on January 14, 2010, pp. 2- 6
- [47] TSN of the witness Theresa Maria Balmeo taken on February 15, 2010, pp. 3-9 and TSN of the witness Theresa Maria Balmeo taken on June 20, 2010, pp. 2-3
- [48] Supra, footnote 1
- [49] Records, pp. 268-271
- [50] Supra, footnote 2
- [51] Rollo, pp. 51-52
- [52] Spouses Nonilon (Manoy) and Irene Montecalvo vs. Heirs (Substitutes) of Eugenia T. Primero, represented by their Attorney-in-Fact, Alfredo T. Primero, Jr. (G. R. No. 165168, July 9, 2010)
- [53] Id.
- [54] Soriamont Steamship Agencies, Inc., and Patrick Ronas vs. Sprint Transport Services, Inc., Ricardo Cruz Papa, doing business under the style Papa Transport Services (G. R. No. 174610, July 14, 2009)
- [55] Id.
- [56] Id.
- [57] TSN of the witness Agustin Mien taken on May 18, 2012, pp. 10, 12
- [58] TSN of the witness Agustin Mien taken on May 18, 2012, pp. 3-4
- [59] TSN of the witness Agustin Mien taken on May 18, 2012, pp. 17-20
- [60] Records, p. 110
- [61] Article 960 of the New Civil Code, states:

“Art. 960. Legal or intestate succession takes place:

(1) If a person dies without a will xxx”

- [62] Article 1078 of the New Civil Code, states:

“Art. 1078. Where there are two or more heirs, the whole estate of the decedent is, before its partition, owned in common by such heirs, subject to the payment of debts of the deceased.”

- [63] Ricardo F. Marquez, et al. vs. Court of Appeals et al. (G. R. No. 125715, December 29, 1998)

[64] Federico Jarantilla, Jr. vs. Antonieta Jarantilla, et al. (G. R. No. 154486, December 1, 2010)

[65] Ricardo F. Marquez, et al. vs. Court of Appeals et al. (G. R. No. 125715, December 29, 1998)

[66] Spouses Jose Rosario and Herminia Rosario vs. Court of Appeals, et al. (G. R. No. 127005, July 19, 1999)

[67] Records, p. 265

[68] Article 2199 of the New Civil Code states:

“Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.”

[69] Article 2217 of the New Civil Code states:

“Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of defendant's wrongful act or omission.”

[70] Article 2208 of the New Civil Code states:

“Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

xxx

xxx

xxx

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

xxx

xxx

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ABOUT BATAS.ORG

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