

**HEIRS OF JOSE VILLEGAS, REP. BY CIRICA VDA. DE VILLEGAS AND
EDNA BITANCOR, PLAINTIFFS-APPELLEES, VS. FLORA VISORRO,
LUIS VISORRO AND BALTAZARA BUSANO,
DEFENDANTS-APPELLANTS.**

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6e8853f3bc69/>

SANTOS, J [2].:

Before this Court is an appeal under Rule 41 of the Rules of Court filed by defendants-appellants to assail the 15 November 2010 Decision[3] of Branch 27 of the Regional Trial Court of Gingoog City in Civil Case No. 98-532, which decreed, thus:

WHEREFORE, upon preponderance of evidence, the Court renders judgment:

1.1

Declaring the plaintiffs the absolute owner of the parcel of land described in paragraph 2 of the Complaint let alone the areas in which the defendants erected their respective houses to the exclusion of the defendants.

1.2

Ordering the defendants to remove their houses and to vacate the premises of which they are erected and to surrender and cancellation of any document that defendants might have relied their alleged claim over said areas this thereby removing the cloud upon Jose Villegas' and plaintiffs' title aforesated.

1.3.

Ordering the defendants to pay jointly and severally the plaintiffs the following sums of money;

1.3.a

P20,000.00 plus P1,000.00 appearance fee, per court hearing, as attorney's fees

1.3.b

P10,000.00 as litigation expenses;

1.3.c

P1000,000.00 to each of the plaintiffs as moral damages;

1.3.d

P50,000.00 to each of the plaintiffs as corrective damages and

1.3.e

P28,000.00 as reasonable rental of the areas of which defendants' houses are erected from January 1997 to the filing of the Amended Complaint, and thereafter, plus P1,000.00 per month from March 1998 until defendants houses are effectively removed and defendants vacated the premises.

1.4

To pay the costs.

SO ORDERED.

The Antecedents

Subject of the present controversy is an unregistered residential lot identified as Lot 340-D (subject lot) which is a portion of Lot 340, located at De Lara – Guanzon Sts., Brgy. 7, Gingoog City and originally owned and declared for taxation purposes by the late Servando Villegas (Servando). The subject lot is particularly described as follows:

Cadastral Lot 340-D, Cad.-10-000752, being a portion of Lot 340, Cad. 295, Gingoog Cadastre, declared in the name of Jose Villegas under Tax Dec. No. 00611, Series of 1996; bounded in the NE., along line 9-10 by Guanzon St. (10.00 m. wide); on the SE., along lines 10-11-12 by Lot 340-C of the subdivision plan, Cad. 10-000752-D, along lines 12-13-1 by Lot 338; on the SW., along line 1-2 by Lot 334, both of Cad. 295, Gingoog Cadastre, on the NW., along line 2-3 by De Lara St. (10.00 m. wide), along lines 3-4-5 by Lot 340-A, along lines 5-6-7 by Lot 340-B, both of the subdivision plan. Cad.-10-000752-D, along lines 8-9 by de Lara St. (10.00 m. wide); consisting of 704 sq. meters more or less.[4]

The subject lot is only one of the several properties left by Servando upon his death. He died on 16 September 1935 and was survived by his three (3) children, namely: Jose, Maria and Natividad, all surnamed Villegas.[5]

Servando is the common ancestor of both the plaintiffs-appellees and defendants-appellants.

Jose Villegas was survived by his heirs, the plaintiffs-appellees in this case, namely: his wife Cirica Vda. De Villegas and their children Edna, Ophelia, Evangeline, Rustom and Gilda, all surnamed Villegas.[6]

Maria was survived by her heirs Cayetana Abad Agosto (Cayetana)[7], Margarito Abad (Margarito) and Magno Abad (Magno). Cayetana had several children and among them are defendants-appellants Flora A. Visorro, married to Luis Visorro, and Baltazara A. Busano. On the other hand, both Margarito and Magno are already

dead. Margarito was survived by his heirs Felicitas Abad and Diosdado Abad; while, Magno died without an issue.[8]

Likewise, Natividad, also known as Trinidad, was survived by her heirs, namely: Rosendo Calo and Eutiquio Calo.[9]

Defendants-appellants Flora A. Visorro and Baltazara A. Busano constructed their respective houses on the subject lot in 1971 and 1979, respectively.[10]

On 16 February 1998, plaintiffs-appellees, represented by Cirica Vda. De Villegas and Edna Villegas Bitancor, filed a Complaint[11] for “Quieting of Title, Recovery of Possession and Damages coupled with Injunction and TRO” against defendants-appellants spouses Flora and Luis Visorro and Baltazara A. Busano before the RTC of Gingoog City, docketed as Civil Case No. 98-532. Plaintiffs-appellees claimed to be the owners in fee simple and in possession of the subject lot. They alleged that upon repeated pleas of defendants-appellants and considering that they are blood relatives, they allowed and tolerated the construction by defendants-appellants Flora and Baltazara of their respective temporary houses on the portions of the subject lot with the condition that should they desire to make use of the area, defendants-appellants will voluntarily vacate the premises and turn it over to them. However, plaintiffs-appellees said that when they demanded from defendants-appellants to remove their houses and to vacate the same, the latter failed and refused to heed their demands. They likewise alleged that they exerted earnest efforts towards compromise but to no avail. Hence, as a final recourse, plaintiffs-appellees, through counsel, sent a written request to defendants-appellants for a conference on 17 September 1997.[12] However, no settlement was reached among them.

Plaintiffs-appellees also claimed that they “hinted” a claim by defendants-appellants over the subject lot; hence, they filed the complaint. They argued that the belated claim of defendants-appellants, if supported by document, such document is forged and fictitious and invalid which created a cloud upon the title of their predecessor-in-interest Jose Villegas so that equity demands that defendants-appellants surrendered the document and have it cancelled. Likewise, they claimed that for failure of defendants-appellants to surrender the subject lot, defendants-appellants should pay a reasonable rental of P500.00 from January 1997 the date when demands were made for them to vacate. They also prayed for an injunctive writ as defendants-appellants threaten to expand and put up a permanent structures or fixtures on their respective houses and continue to brazenly deprive them of their dominion and use of the subject lot.

Plaintiffs-appellees also alleged that as a result of defendants-appellants’ unlawful and malicious withholding of the subject lot, they prayed for moral damages in the amount of P100,000.00 for each of them; exemplary or corrective damages in the amount of P50,000.00 to each of them; attorney’s fees of P20,000.00 plus appearance fee of P1,000.00 per court hearing; litigation expenses of P10,000.00; reasonable rental in the amount of P14,000.00 from January 1997 to the filing of the case and P1,000.00 per month from March 1998 until defendants-appellants houses are effectively removed and the latter vacated the premises.

On 28 May 1998, defendants-appellants filed their Answer.[13] They denied the claim of exclusive ownership of the plaintiffs-appellees on the subject lot arguing that they are co-owners thereof because the subject lot is a hereditary property of the late Servando Villegas who upon his death transmitted the same to his heirs Jose, Trinidad and Maria in three (3) equal shares. They claimed that it was from the share of Maria from whom their mother Cayetana and her brother Margarito acquired by succession the one-third (1/3) share of the subject lot. While they admitted having received a demand from the plaintiffs-appellees to vacate the premises they occupied, yet, they asserted that their continued stay and occupation on the subject lot is pursuant to their rightful claim of co-ownership over said property.

Defendants-appellants likewise claimed that plaintiffs-appellees were indulged in simulation, maneuvering and manipulations by procuring and holding in their possession conflicting and contradictory documents which are suspicious and equally doubtful documents vainly calculated to defeat their rightful claim as well as the other heirs of Maria over the subject lot. They alleged that among the documents in the possession of plaintiffs-appellees are a Quitclaim Deed[14] dated 03 June 1940, a “Kalig-unan”[15] or Agreement[16] dated 29 January 1951, and an “Eskritura de Donacion Onerosa”[17] dated 30 October 1947. It was also alleged by defendants-appellants that there is no basis for the issuance of the provisional remedy of injunction because they had been long in occupation and possession of the portion of the subject lot following the principle that acts already done can no longer be validly enjoined.

By way of affirmative defense, defendants-appellants alleged that plaintiffs-appellees have no cause of action against them and if they do, the same had long been lost by prescription and laches. Likewise, they alleged that plaintiffs-appellees have no personality to institute the case because in a court’s Decision[18] dated 23 December 1969 in Cadastral Case No. N-10, L.R.C. Rec. No. 347, Lot 340 was adjudicated to a certain Jose L. Reyes, married to Isabel Ponce, unless Jose L. Reyes and Isabel Ponce are mere dummies whose names were only used by the plaintiffs-appellees to confuse and deprive them and the other heirs of Servando Villegas of their rightful claim over the subject lot. They even claimed that Lot 340 is with a pre-existing conflict among Jose, Trinidad, Cayetana and Felicitas Abad. The said Lot 340 had been surveyed as a conflicted lot for and among the conflicting claimants per records in the CENRO, DENR, Gingoog City, as shown in its Certification[19] and which is the same conflicting claim carried out in Tax Declaration No. 17581[20] for Lot 340.

By way of counterclaim, defendants-appellants prayed for moral damages in the sum of P100,000.00; attorney’s fees of P35,000.00 plus P1,000.00 per court appearance; and litigation expenses of P10,000.00.

Meanwhile, it was found out in the course of the Pre-Trial Conference that there is a need to amend the complaint in order to conform to certain documents. Hence, in an Order[21] dated 16 March 1999, the trial court ordered the plaintiffs-appellees to amend their complaint and for the defendants-appellants to file their corresponding answer thereto.

On 12 April 1999, the plaintiffs-appellees filed their Amended Complaint.[22] In addition to their allegations found in their original complaint, they further alleged that the subject lot is part of the bigger area measuring about 1,044 square meters (sq. m.) under Tax Declaration No. 16634[23] in the name of Servando Villegas who upon his death was transmitted by operation of law to his children, namely: Jose, plaintiffs-appellees’ predecessor-in-interest; Maria, the grandmother of defendants-appellants, being the children of Cayetana the daughter of Maria; and Natividad. Plaintiffs-appellees claimed that the absolute ownership and possession of the subject lot was vested in their predecessor-in-interest Jose pursuant to the Deed of Quitclaim[24] executed by Natividad and defendants-appellants’ mother Cayetana on 03 June 1940. They alleged that the said document was duly notarized and was registered[25] with the Office of the Register of Deeds of Misamis Oriental on 22 April 1949 together with the “Affidavit to Supplement the Quitclaim Deed.”[26] They also claimed that it is on this subject lot that the original residential house of Jose was built.

It was also alleged by plaintiffs-appellees that on 30 October 1947, Jose donated 88 sq. m. out of the original area in favor of defendants-appellants’ mother Cayetana as evidenced by the document denominated as “Eskritura de Donacion Onerosa.”[27] From the original area of 1,044 sq. m., the subject lot is only 704 sq. m. as this is the only area left to Jose since during his lifetime he already made dispositions of some portions of the land. Also, they claimed that defendants-appellants’ mother Cayetana has already sold her rights, shares and interest of the property located at Kahulugan, Gingoog City, which she inherited from the estate of Servando Villegas to the Intestate Estate of C.V. Lugod as shown in the Deed of Partition[28] dated 22 July 1971.

On 24 May 1999, defendants-appellants filed their Answer to the Amended Complaint.[29] In addition to their denials and allegations found in their original answer, they also alleged that the execution of the document denominated as “Escritura de Donacion Onerosa” was in furtherance of the scheme pursued by the late Jose Villegas in taking advantage of and in exploiting to his own benefit the unsuspecting trust in him, the credulity and the inability of his other co-heirs to discern his cunning maneuvers to exclude, deprive and to make it appear that he alone has the exclusive claim over the entire estate left by Servando Villegas. Also, they claimed that the “Deed of Quitclaim” adverted to by the plaintiffs-appellees is simulated, feigned and characterized by gross inadequacy and incredibly disproportionate consideration of P100.00 in order for Cayetana and Trinidad to surrender their rights over four (4) parcels of prime land with areas of 1,044 sq. m., 49,725 sq. m., 10,464 sq. m., and 12,303 sq. m. all in favor of Jose. They alleged that the supposed execution of the said document was carried out without prior formal adjudication and settlement of the estate of Servando Villegas; hence, the Deed of Quitclaim is a nullity.

During the Pre-Trial, the principal issue submitted by the parties was who between Cayetana Abad Augusto and plaintiffs-appellees own the subject lot?[30]

After due proceedings, the trial court rendered the assailed Decision dated 15 November 2010 in favor of the plaintiffs-appellees.

Hence, the present appeal.

Meanwhile, before the record of the case could be forwarded to this Court, a Notice of Death³¹ was filed before the trial court on the demise of defendant-appellant Flora Visorro. The deceased defendant-appellant is now substituted by her heirs, namely: Rolando Augusto Reyes, Rebecca Augusto Visorro, Ritchie Augusto Visorro and Ronan Augusto Visorro.

The Assignment of Error

Defendants-appellants raise the lone assigned error in their Appellants’ Brief:

THE COURT A QUO ERRED IN FINDING THAT THE DEFENDANTS-APPELLANTS HAVE NO EQUITABLE TITLE TO THE PROPERTY IN ISSUE.

However, other than the afore-quoted assigned error, defendants-appellants also raised as an “issue” in their Appellant’s Brief the following:

WHETHER OR NOT THE ALLEGED DEED OF QUITCLAIM AND THE DEED OF DONATION OR “ESCRITURA DE DONACION ONEROSA[”] ARE EFFECTIVE AS CAUSES FOR THE DISINHERITANCE OF THE DEFENDANTS?[32]

This Court’s Ruling

The appeal is devoid of merit.

Defendants-appellants contend that the subject lot is part of the intestate estate of the late Servando Villegas. They claim that in the hierarchy of kinship of the patriarch, they are heirs of Servando Villegas as Cayetana Villegas Abad Vda. De Augusto, the mother of defendant-appellant Baltazara and the late defendant-appellant Flora, is the daughter of Maria, a compulsory heir of Servando. They claim that by way of representation, they are entitled to a share of the subject lot. They allege that the trial court’s finding that the execution of a Deed of Quitclaim by Cayetana in favor of Jose has effectively removed Cayetana from the enjoyment of the inheritance, has no basis in fact and in law. They argue that there is no evidence to show that the intestate estate of Servando has been distributed to the rightful heirs and therefore, it remains undivided. Likewise, they claim that the Quitclaim must

be deemed to have amounted to a repudiation, in which case, they are called upon by law in their own right to succession in the estate of Servando as they are in the direct descending line of the latter and are qualified to inherit the property. They assert that to rule otherwise is to be quite unfair to them. More so, they claim that it is queer for a mother to renounce her share and deprive her own descendants from enjoying what in fact and in law does belong to her.

Defendants-appellants also contend that the trial court erred in finding that the Deed of Donation executed by Jose in favor of Cayetana negates their right to the estate of their grandfather Servando. Likewise, they claim that it was erroneous for the trial court to declare that Jose was already the owner and in possession of the subject lot because there had been no distribution yet of the intestate estate of Servando. Hence, the subject lot is still a common property between and among the heirs of Servando including them and they have therefore, a definite equitable title over the same.

In traversing the contentions of defendants-appellants, plaintiffs-appellees counter that the ground interposed by defendants-appellants relative to the non-distribution yet of the intestate estate of Servando was raised for the first time on this appeal. They argue that this ground is in fact inconsistent to defendants-appellants claim in their Answer that upon the death of Servando, the hereditary properties including the subject lot were already transmitted by way of inheritance to his children Jose, Maria and Trinidad. They further argue that in the case of Maria, her lawful share was likewise acquired by succession by Cayetana and the surviving heirs of Margarito. They also argue that the evidence presented before the trial court belie the claim of defendants-appellants there was no distribution yet of the estate of Servando. In fact, plaintiffs-appellees claim that it was admitted by Cayetana that she executed the Deed of Quitclaim. Plaintiffs-appellees also counter that the appeal is patently without merit and it was prosecuted merely to delay the final adjudication of the case.

Defendants-appellants fail to persuade this Court.

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 place 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 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.[33]

Under Article 476 of the Civil Code, the remedy may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears to be valid but is, in fact, invalid, ineffective, voidable, or unenforceable, a cloud is thereby cast on the complainant's title to real property or any interest therein. The provision reads:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

Verily, for an action to quite 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.[34]

Here, all the requisites are present.

First, plaintiffs-appellees were able to sufficiently establish their legal title or interest in the subject lot. It is settled that legal title denotes registered ownership, while equitable title means beneficial ownership. In the absence of such legal or equitable title, or interest, there is no cloud to be prevented or removed.^[35] In this case, plaintiffs-appellees anchored their legal title or interest in the subject lot on the duly notarized and registered Deed of Quitclaim dated 03 June 1940 executed by Natividad and Cayetana whereby they waived and quitclaimed whatever interest and claim they had over Lot 340, to which the subject lot is a portion of, in favor of Jose. Succinctly put, the Deed of Quitclaim executed by Cayetana relinquishing her share over the subject lot in favor of Jose is valid and therefore binding upon her and her heirs and assigns.

In *Heirs of Cipriana Reyes v. Calumpang*,^[36] the Supreme Court made an elucidating discourse on the validity of a waiver and quitclaim, viz:

The Quitclaim (Waiver) is Valid

The waiver is clear. The recent case of *Valderama v. Macalde* reiterated the three (3) essential elements of a valid waiver, thus: “(a) existence of a right; (b) the knowledge of the existence thereof; and, (c) an intention to relinquish such right.” ^[37] These elements are all present in the case at bar. The three (3) executors, who were co-owners and titleholders of the said lot since 1954, were aware of their rights, and executed the Deed of Quitclaim in clear and unambiguous language to waive and relinquish their rights over Lot No. 3880 in favor of the heirs of Victoriana and Telesfora Reyes. Thus, the existence of a valid waiver has been positively demonstrated. Moreover, in *People v. Bodoso*, cited in *Valderama*, it was held that the standard of a valid waiver requires that it “not only must be voluntary, but must be knowing, intelligent, and done with sufficient awareness of the relevant circumstances and likely consequences.”^[38] In the instant case, petitioners utterly failed to adduce any evidence showing that the assailed quitclaim was done absent such standard. Indeed, we note with approval the CA’s apt application of the presumption “that a person takes ordinary care of his concerns and that private transactions have been fair and regular.”

Waiver Complies with the Requisites of a Valid Contract and the Formal Requisites to Convey Real Property

Petitioners argue that even if the conveyance or waiver was duly executed, such is ineffective on the grounds of non-compliance with the requirements of Article 1318 of the new Civil Code on the requisites of a contract, and that it cannot be considered a donation for non-compliance with the formalities required by the law on donation, for example, acceptance.

The argument is bereft of merit.

The Deed of Quitclaim complies with the essential requisites of a contract provided in Article 1318 of the Civil Code, viz: (a) consent of the parties; (b) object certain that is the subject matter of the waiver and quitclaim; and, (c) the cause of the waiver and quitclaim that is established. First, there is no doubt as to the consent of the executing parties and the heirs of Victoriana and Telesfora Reyes. Second, the object is the executors’ right over the subject land. And third, the cause is certain, that is, the recognition by the executors of the rights of the heirs of Victoriana and Telesfora Reyes over the disputed lot.

It likewise complies with Article 1358 (1) of the Civil Code which requires that “acts and contracts which have for their object the creation, transmission, modification or extinguishments of real rights over immovable property” must appear in a public document. This is complied with, as the Deed of Quitclaim is a public document having been acknowledged before a notary public.^[39] Moreover, the Deed of Quitclaim has been duly annotated in the original certificate of title covering the subject lot.

In this case, all the elements of a valid waiver are present. It is undisputed that Jose, Natividad and Cayetana are co-owners of Lot 340. Cayetana derived her right and interest over the lot from her mother Maria, the sister of

Jose and Natividad. As co-owners thereof, they have an existing right over the lot and they have knowledge of such right. Likewise, the intentions of Natividad and Cayetana to relinquish their respective rights over Lot 340 in favor of Jose are clear. This is apparent in the duly notarized and registered Deed of Quitclaim. Hence, there is no doubt that the Deed of Quitclaim is valid and binding upon Natividad, Cayetana and Jose. In the same vein, defendants-appellants, as children of Cayetana, are bound by the Deed of Quitclaim executed by their mother; hence, they too have no more claim or interest over the subject lot which has been relinquished by their mother as early as 03 June 1940.

While Cayetana, who was presented as a witness for the defendants-appellants, denied having signed the Deed of Quitclaim in 1940, yet, no evidence was presented and not even a single reason was proffered by Cayetana to show that the signature found thereat was not hers.[40] Had this been true, she should have asserted her rightful claim over Lot 340 during the lifetime of Jose and asked for the nullification of the Quitclaim. Regrettably, Cayetana did not do so. It is important to note that from the time the Deed of Quitclaim was executed in 1940, Cayetana did not lift a finger to question the document, not until the case was filed against her children after more than 50 years from its execution that she appeared in court and denied having signed the document.

In the contrary, evidence found in the record is overwhelming to prove that indeed the Deed of Quitclaim was validly executed and the ownership of Jose over Lot 340 was recognized as a consequence of the Quitclaim. For one, Jose executed the “Escritura de Donacion Onerosa” on 30 October 1947 whereby Jose donated 88 sq. m. portion of Lot 340 in favor of defendants-appellants’ mother Cayetana and the donated 88 sq. m. lot was subsequently declared in the name of Cayetana for taxation purposes.[41] It is highly implausible for Cayetana to accept the donated portion if indeed she did not relinquish her right and interest over the subject lot in favor of Jose. Also, it is contrary to human nature and for a co-owner to remain nonchalant and not assert her right for more than 50 years and then accept the donation of property she already owns if indeed Cayetana still has a lawful and valid claim over Lot 340. In fact, it was admitted by Cayetana during one of the hearings before the trial court that she accepted the donation and she did not make any protest thereof.[42] It was also admitted by Cayetana during one of the hearings of the case that her daughters defendants-appellants Flora and Baltazara asked permission from Jose when they constructed their respective houses on the subject lot.[43] If indeed Cayetana did not relinquish her right and interest over the subject lot, there is no reason for her children to secure first the permission from Jose in order to build a house thereon.

Moreover, consistent with the execution of the Quitclaim Deed and the Deed of Donation, the Land History Verification[44] shows that from the 1,016 sq. m. area of Lot 340, a 928 sq. m. portion thereof was declared in the name of Jose starting in the year 1959 while the 88 sq. m. portion thereof was declared in the name of Cayetana starting in the year 1962. Settled is the rule that while tax declaration is not a conclusive evidence of ownership, yet, it constitutes proof that the person paying for the real property tax has a claim of title over it. In *Ganila v. Court of Appeals*,[45] the Supreme Court held that:

Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one’s sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one’s bona fide claim of acquisition of ownership.

Furthermore, plaintiffs-appellees submitted in court the Deed of Exchange[46] dated 22 June 1960 whereby Jose, as the absolute owner of Lot 340, exchanged a portion of Lot 340 consisting of 84 sq. m. with the property of

Felicitas Abad, the daughter of Cayetana's deceased brother Margarito, located at Libon and Cogon, Gingoog City. Consequently, this 84 sq. m. portion of Lot 340 was declared for taxation purposes by Felicitas Abad starting in the year 1965. This conveyance also recognizes the ownership of Jose over Lot 340.

Indeed, other than the bare allegations of defendants-appellants that the Deed of Quitclaim is sham and fraudulent, they did not, however, present any evidence to support their allegations. It should be noted also that the Deed of Quitclaim was notarized; as such, it enjoys the presumption of regularity and carries the evidentiary weight conferred upon it with respect to its due execution.[47] Settled is the rule that he who alleges a fact has the burden of proving it and a mere allegation is not evidence.[48] In this case, defendants-appellants failed to discharge this burden and overturn the presumption of validity of a notarized Deed of Quitclaim. Absent any clear and convincing proof to the contrary, a notarized document, such as the Deed of Quitclaim in this case, enjoys the presumption of regularity and is conclusive as to the truthfulness of its contents.[49] There is therefore, no doubt that the subject lot belongs to Jose, being a portion of Lot 340, and upon his death, it was transmitted to his lawful heirs, plaintiffs-appellees in this case.

Second, the claim of defendants-appellants over the subject lot is without basis despite its prima facie appearance of validity or legal efficacy. Settled is the rule that a cloud is said to be a semblance of a title, either legal or equitable, or a cloud of an interest in land appearing in some legal form but which is, in fact, unfounded, or which it would be inequitable to enforce.[50] Here, defendants-appellants' claim that they are co-owners of the subject lot, though it has a semblance of a valid claim, is unfounded. There is no merit to their assertion that they are still co-owners thereof because their mother Cayetana did not relinquish her share over Lot 340 in favor of Jose. As discussed above, the Deed of Quitclaim is valid and as such, defendants-appellants and even their mother Cayetana, have no more claims or interest, legal or beneficial, over the subject lot.

Moreover, defendants-appellants' contention that the Deed of Quitclaim executed by their mother Cayetana has amounted to a repudiation of her inheritance purportedly from Servando in representation of her deceased mother Maria, in which case, they are allegedly called upon by law to inherit by succession in their own right by invoking Article 969 of the Civil Code, is preposterous. Article 969 of the Civil Code is clearly not applicable in the case of defendants-appellants since Cayetana is not the sole heir of Servando nor did all the heirs of the latter repudiate the inheritance from Servando. Also, if indeed the execution of the Quitclaim by Cayetana amounted to a repudiation of her inheritance from Servando, the provision applicable is Article 968[51] of the Civil Code in which case, the share of Cayetana accrued to Jose since Trinidad likewise ceded her share to Jose. Additionally, based on the testimonial and documentary evidence found in the record, it appears that the execution of the Deed of Quitclaim is part of a de facto extra-judicial settlement of the estate of Servando contrary to the asseveration of defendants-appellants that there was no settlement yet of the estate of Servando. In fact, Cayetana herself testified and admitted in court that there were already conveyances made by her and the other heirs of Servando disposing some of the properties acquired by inheritance from the estate of Servando including, among others, Cayetana's sale to Jose involving the parcel of lot located at Mantigasaw,[52] Cayetana's sale of the parcel of land located at Kahulogan which she sold to Conrado Lugod Estate,[53] Trinidad's sale of her share to Norberto Hurtado.[54] Essentially, defendants-appellants' claims that Cayetana is still a co-owner of the properties left by Servando as there was no settlement or partition yet of the latter's estate and that as children of Cayetana, they are called upon by law in their own right to succession due to the alleged repudiation by Cayetana of her inheritance from Servando in representation of her deceased mother Maria in the Deed of Quitclaim, are unfounded and without legal basis.

In sum, plaintiffs-appellees were able to discharge their burden of proving that they have a legal title, interest or claim over the subject lot and defendants-appellants' unfounded claim over it have cast a cloud over their title,

which cloud must be removed.

Accordingly, the trial court was correct in declaring that plaintiffs-appellees are entitled to the possession of the subject lot and defendants-appellants must vacate the premises and return the possession thereof to its lawful owners – the plaintiffs-appellees.

This notwithstanding, this Court is constrained to delete the trial court's awards of moral and exemplary damages, attorney's fees and litigation expenses in favor of plaintiffs-appellees for having been awarded without making any findings thereon. Although this was not raised as an issue in this present appeal, yet, this Court finds it necessary to delete the awards considering that the damages awarded to plaintiffs-appellees were found only in the dispositive portion of the assailed decision and the factual and legal reasons for such awards are not discussed by the trial court. In *Dutch Boy Philippines, Inc. v. Seniel*,^[55] the Supreme Court aptly ruled:

The CA, however, erred in awarding moral and compensatory damages in favor of Ronald and Cesario, as it did not disclose in the body of its decision the factual basis for such awards. Whenever such awards are made, the court must explicitly state in the body of its decision, and not merely in its dispositive portion, the legal reason for the award.

In the present case, the appellate court awarded damages only in the dispositive portion of the decision, without stating therein clearly and distinctly the factual and legal bases thereof. Thus, following the doctrine enunciated in *Pang-oden v. Leonen*^[56] and *Ranola v. Court of Appeals*,^[57] said awards should be deleted. The grant of damages and attorney's fees requires factual, legal and equitable justification; its basis cannot be left to speculation or conjecture.

Likewise, this Court deletes the amount awarded as fair rental for the occupation and possession of defendants-appellants on the subject lot for lack of evidence on record to support the amount awarded as rental of the portion of the subject lot occupied by defendants-appellants. This is in addition to the fact that the award of rental was found only at the fallo of the assailed Decision. In *Bunyi v. Factor*,^[58] the Supreme Court ruled:

As to the last issue, we have previously ruled that while the courts may fix the reasonable amount of rent for the use and occupation of a disputed property, they could not simply rely on their own appreciation of land values without considering any evidence. The reasonable amount of any rent could not be determined by mere judicial notice but by supporting evidence. In the instant case, we find no evidence on record to support the MeTC's award of rent.

As in this case, other than the allegation found in the complaint on the alleged amount of fair rental, there was no evidence submitted by plaintiffs-appellees to substantiate the amount claimed as rental for the use of the land. Likewise, the trial court in awarding the same did not discuss its basis for such amount awarded as rental. Hence, the award of rental should be deleted.

WHEREFORE, the instant appeal is hereby DISMISSED for lack of merit. The assailed 15 November 2010 Decision of Branch 27 of the Regional Trial Court of Gingoog City in Civil Case No. 98-532 is hereby AFFIRMED with MODIFICATION that the awards of moral and exemplary damages, attorney's fees, litigation expenses and rentals are DELETED.

SO ORDERED.

Lloren, J., Ch., and Contreras, JJ., concur.

[1] Substituted by her heirs, namely: Rolando Augusto Reyes, Rebecca Augusto Visorro, Ritchie Augusto Visorro and Ronan Augusto Visorro pursuant to the Notice of Death filed before the trial court informing the court that

Flora Visorro died on 16 June 2009.

[2] The case was unloaded to the undersigned Ponente pursuant to Office Order No. 03-14-JMBP dated 01 April 2014 as part of his initial caseload.

[3] Penned by Hon. Rustico D. Paderanga, Acting Presiding Judge; Original Record, pp. 205-218.

[4] Exhibit “H” of the Plaintiffs-Appellees, Folder of Exhibits for Plaintiffs, p. 38.

[5] Stipulation of Facts, Id., p. 93.

[6] Supra, at pp. 94-95.

[7] Also spelled as “Agusto” and “Augusto” in the Record.

[8] Stipulation of Facts, Original Record, pp. 93-96.

[9] Supra, at p. 93.

[10] Supra, at p. 97.

[11] Original Records, pp. 4-7.

[12] Exhibit “I-1” of the Plaintiffs-Appellees, Folder of Exhibits for Plaintiffs, p. 31.

[13] Original Record, pp. 12-20.

[14] Exhibit “1” of the Defendants-Appellants, Folder of Exhibits for Defendants, pp. 6-7.

[15] Exhibit “2” of the Defendants-Appellants, Id., p. 8.

[16] Exhibit “2-A” of the Defendants-Appellants, Id., p. 9.

[17] Exhibit “3” of the Defendants-Appellants, Id., pp. 10-11.

[18] Exhibit “7” of the Defendants-Appellants, Id., pp. 16-19.

[19] Exhibit “6” of the Defendants-Appellants, Id., p. 15.

[20] Exhibit “5” of the Defendants-Appellants, Id., p. 13.

[21] Original Record, p. 51.

[22] Id., pp. 52-58.

[23] As stated in the Quitclaim Deed, Exhibit “A” of the Plaintiffs-Appellees, Folder of Exhibits for the Plaintiffs, p. 7.

[24] Exhibit “A” of the Plaintiffs-Appellees, Folder of Exhibits for the Plaintiffs, pp. 7-8.

[25] Exhibit “A-2” of the Plaintiffs-Appellees, Id., at the back of p. 8.

[26] Exhibit “B” of the Plaintiffs-Appellees, Id., p. 9.

[27] Exhibit “C” of the Plaintiffs-Appellees, Id., pp. 18-19.

[28] Exhibit “D” of the Plaintiffs-Appellees, Id., pp. 20-21.

[29] Original Records, p. 80-89.

- [30] Pre-Trial Order, Id. p. 100.
- [31] Id., pp. 226-227.
- [32] Appellants' Brief, Id., p. 24.
- [33] Mananquil v. Moico, G.R. No. 180076, November 21, 2012.
- [34] Calacala, et al. v. Court of Appeals, G. R. No. 154415, July 28, 2005.
- [35] Mananquil v. Moico, G.R. No. 180076, November 21, 2012.
- [36] G.R. No. 138463, 30 October 2006.
- [37] G.R. No. 165005, September 16, 2005.
- [38] G.R. Nos. 149382-149383, March 5, 2003.
- [39] See Section 19 (b), Rule 132 of the Revised Rules on Evidence, Rules of Court.
- [40] TSN dated February 21, 2001, pp. 7, 10-11; TSN dated February 22, 2001, pp. 4-6.
- [41] Land History Verification, Exhibit "6" of the Defendants-Appellants, Folder of Exhibits for Defendants, p. 14.
- [42] TSN dated February 22, 2001, p. 9; Also TSN dated February 21, 2001, pp.13-14.
- [43] TSN dated February 21, 2001, pp. 8-9.
- [44] Exhibit "K" of the Plaintiffs-Appellees, Folder of Exhibits for Plaintiffs, p. 33.
- [45] G.R. No. 150755, 28 June 2005, cited in Republic v. Ana-Burgos, G.R. No. 163254, June 1, 2007.
- [46] Exhibit "N-1" of the Plaintiffs-Appellees, Folder of Exhibits for Plaintiffs, p. 40.
- [47] Alfaro v. Court of Appeals, G.R. No. 162864, March 28, 2007.
- [48] Pimentel v. Court of Appeals, G.R. No. 117422, May 12, 1999.
- [49] Ocampo v. Land Bank of the Philippines, G.R. No. 164968, July 3, 2009.
- [50] Iglesia ni Cristo v. Ponferrada, G.R. No. 168943, October 27, 2006.
- [51] Art. 968. If there are several relatives of the same degree, and one or some of them are unwilling or incapacitated to succeed, his portion shall accrue to the others of same degree, save the right of representation when it should take place.
- [52] TSN dated 22 February 2001, p. 3; see also document denominated as "Kalig-unan" dated 29 January 1951 marked as Exhibit "2" of Defendants-Appellants, Folder of Exhibit for Defendants, p. 8.
- [53] TSN dated 22 February 2001, p. 3; see also Deed of Partition marked as Exhibit "D" of Plaintiffs-Appellees, Folder of Exhibits for Plaintiffs, pp. 20-21.
- [54] TSN dated 21 February 2001, p. 18.
- [55] G.R. No. 170008, January 19, 2009.
- [56] G.R. No. 138939, December 6, 2009.

[57] 379 Phil. 1, (2000).

[58] G.R. No. 172547, June 30, 2009.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.