

**MARIO R. VALDEZ AND REMEDIOS R. VALDEZ-REYES, PETITIONERS,
VS. THE HONORABLE PRESIDING JUDGE JOVEN M. COSTALES,
REGIONAL TRIAL COURT, FIRST JUDICIAL REGION, BRANCH 45,
URDANETA ...**

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Annulment of Judgment[1] under Rule 47 of the 1997 Revised Rules of Civil Procedure seeking to annul the Decision[2] dated April 2, 2007 of the Regional Trial Court (RTC), First Judicial Region, Branch 45, Urdaneta City, Pangasinan in Civil Case No. U-8563 for Declaration of Nullity of Documents, Nullification of Mortgage, Partition and Damages entitled “ADELAIDA VALDEZ, JOSEPHINE VALDEZ-TORNE, FLORIDA VALDEZ, and SONIA VALDEZ, Plaintiffs, versus MARIO VALDEZ and EDA JANE BATENGA, Defendants.”, the dispositive portion of which reads:

“WHEREFORE, the Court renders judgment by default as follows:

- 1). The Court orders and directs the cancellation of Transfer Certificate of Title No. 236880 in the name of defendant Mario Valdez and said defendant is ordered and directed to restore Transfer Certificate of Title No. 231972 in the name of Sotrico Valdez married to Sofia R. Valdez;
- 2). The Court declares that the plaintiff Adelaida Valdez to be the legal owner of 250 square meters, middle portion, of the land, subject matter of this complaint;
- 3). The Court orders and directs that the remaining portion or area covered by Transfer Certificate of Title No. 231972 which is 847 square meters shall be partitioned among the plaintiffs, Josephine Valdez-Torne, Florida Valdez, Sonia Valdez and defendant Mario Valdez, in equal shares or 211. 75 square meters each;
- 4). The Court orders and directs the cancellation of the Mortgage Contract dated October 28, 2004, entered by and between the defendants Mario Valdez and Eda Jane-Batenga;
- 5). The Court orders the defendant, Mario Valdez, to pay to the plaintiffs the amount of ₱30,000.00 as moral damages and ₱20,000.00 as litigation expenses.

SO ORDERED.”[3]

The facts are:

The instant controversy stemmed from a Complaint[4] for Declaration of Nullity of Documents, Nullification of Mortgage, Partition, and Damages filed by private respondents Adelaida Valdez-Discipulo, Josephine Valdez-Torne, Florida Valdez, and Sonia Valdez against petitioner Mario Valdez and Eda Jane Batenga averring that: private respondents discovered that Transfer Certificate of Title (TCT) No. 231972[5] with an area of 1,097 square meters in the name of Sotrico Valdez, private respondent Adelaida's brother and the father of the other private respondents, was fraudulently canceled through a Deed of Quitclaim leading to the issuance of three (3)

titles: TCT No. 236879 in the name of Spouses Gilbert and Emilia Tomines with an area of 100 square meters, TCT No. 236880[6] in the name of petitioner Mario, brother of the private respondents, with an area of 575 square meters, and TCT No. 236881 also in the name of petitioner Mario, with an area of 239 square meters; the remaining 183 square meters, meanwhile, was disposed in favor of one Rosalina Peralta[7], also through a fraudulent Deed of Quitclaim supposedly executed by Sotrico Valdez; these acts were perpetuated by petitioner Mario to deprive the private respondents, his siblings, of their rights over the subject property; worse, they learned that petitioner Mario mortgaged[8] the aforesaid 575-square meter portion under TCT No. 236880 in favor of Eda Jane Batenga (Batenga for brevity) for ₱150,000.00, appropriating the proceeds thereof to the complete exclusion of private respondents; and, petitioner Mario's actuations prompted private respondent Adelaida to file a criminal complaint[9] against him for falsification of public documents. Private respondents prayed that TCT No. 236880 in the name of petitioner Mario, as well as the mortgage he executed in favor of Batenga be canceled and that the said 575-square meter portion be partitioned among them.

Summons[10] was served to petitioner Mario on July 10, 2006. As regards Batenga, private respondents filed a Motion for Issuance of Alias Summons[11] from her given address at Cainta, Rizal to her current residence at Gracia Village, Barangay Nancayasan, Urdaneta City, which the lower court granted.[12] Thus, Alias Summons[13] was served at the said address to Lorna Nero, Batenga's sister, who refused to sign the same.[14]

Due to petitioner Mario and Batenga's failure to file their Answer, private respondents filed a Motion[15] to Declare them in Default and/or allow the presentation of evidence ex-parte, which was granted by the lower court in its Order[16] dated November 16, 2006. Private respondents offered the testimonies of Adelaida[17] and Florida Valdez[18], and thereafter filed their Formal Offer of Evidence.[19]

On April 2, 2007, the lower court rendered the assailed Decision[20] in favor of the private respondents, ordering the cancellation of TCT No. 236880 in the name of petitioner Mario as well as the mortgage contract he executed in favor of Batenga. The lower court declared private respondent Adelaida the legal owner of the 250-square meter portion of subject property, while the remaining 847 square meters was partitioned among private respondents Josephine, Florida, Sonia, and petitioner Mario.

On June 14, 2007, petitioner Remedios filed a Complaint[21] before the RTC of Urdaneta City to annul the said Decision of the RTC, Branch 45. The RTC, Branch 47 dismissed[22] the complaint for lack of jurisdiction, holding that it cannot annul the decision of a co-equal and coordinate court.

Undaunted, on November 27, 2007, petitioners Mario and Remedios filed before this Court the instant Petition[23] for Annulment of Judgment averring that: it was in May 2007 when petitioner Remedios obtained a copy of the assailed Decision; private respondents deliberately and maliciously excluded an indispensable party to the case, petitioner Remedios, who is their sister; with respect to petitioner Mario, it was made to appear that he personally received the summons despite the fact that at that time, he was in Jaro City, Iloilo looking for a job, and not in Urdaneta; further, Eda Jane Batenga was never personally served a copy of the summons due to the wrong address fraudulently supplied by the private respondents; Batenga resided in Vista Verde, Cainta, Rizal and not in Gracia Village Subdivision, Nancayasan, Urdaneta City; the Sheriff of RTC, Branch 45, however, insisted and tendered the summons to one Lorna Nero, alleged sister of Batenga, who was not authorized to receive the same nor was living with her; notwithstanding this invalid service of summons to petitioner Mario and Batenga, the RTC Branch 45 declared them in default and allowed private respondents to present their evidence ex parte; moreover, the assailed Decision is not supported by the evidence and not in accord with private respondents' prayer in their complaint; private respondents malevolently excluded Spouses Tomines and Rosalina Peralta, who are occupants and registered owners of portions of the subject property; and, extrinsic fraud was committed by the private respondents which prevented petitioners from having a fair trial.

For their part, private respondents filed their Answer[24] maintaining that: they religiously persuaded petitioner Remedios to join them in recovering from their brother, petitioner Mario, the ownership of their shares from their parents, but she refused and mockingly discouraged them from pursuing their plan; according to petitioner Remedios, the subject property was already titled in petitioner Mario's name and that private respondents could do nothing to recover the same; knowing that the subject property was mortgaged to Batenga and about to be foreclosed, petitioner Remedios told private respondents to just allow the property to be foreclosed, so that her family could move to her sister-in-law's house; anent petitioner Mario, he was duly served with summons as he in fact attended the first hearing on July 10, 2006 for the issuance of a Temporary Restraining Order; he personally affixed his signature on the face of the summons dated June 30, 2006; petitioner Mario, however, failed to file his Answer and willfully did not participate in the proceedings, evading receipt of any process from the court; as for Batenga, she was residing at her sister Lorna Nero's house at 7th Street, Gracia Village, Urdaneta City during the period when summons was served; it was Gemma Tugas, private respondent Adelaida's daughter, who learned that Batenga resided at her sister's house in Urdaneta at the time of filing of the Motion for Issuance of Alias Summons; likewise, Batenga was seen by her neighbors at the premises a few minutes before the Sheriff of RTC, Branch 45 served the summons; private respondents sought the execution of the assailed Decision but only to the extent of the 575-square meter portion covered by TCT No. 236880 in the name of petitioner Mario; private respondents did not disturb the portions titled in the names of Spouses Tomines and Rosalina Peralta, as agreed upon in the Deed of Partition[25] they executed; while the lower court explicitly ordered the cancellation of TCT No. 236880 in the name of petitioner Mario, nowhere in the assailed Decision is it stated that the titles in the names of Spouses Tomines and Rosalina Peralta are to be canceled; the exclusion of petitioner Remedios from the case was her own doing as she refused to join private respondents in recovering their inheritance from petitioner Mario; she merely laughed at private respondents and discouraged them to file any action against petitioner Mario; the attitude of petitioner Remedios in not being bothered by the information relayed to her by the private respondents regarding the anomalous disposals of petitioner Mario is suggestive of a connivance between the petitioners in the unlawful disposal of the inheritance; petitioner Remedios' husband, Jose Reyes, even participated as a witness to the Deed of Quitclaim[26], which is one of the documents falsified[27] by petitioner Mario; it is only when private respondents succeeded in their quest for justice that petitioner Remedios desired to put in vain their efforts; petitioners' manifestly false allegations before this Court is undoubtedly contemptuous; the mortgage executed by petitioner Mario in favor of Batenga was with the knowledge and acquiescence of petitioner Remedios, which explains her refusal to join private respondents in the case.

On February 19, 2008, this Court issued a Resolution[28] referring the case to the Executive Judge of the Regional Trial Court of Urdaneta City for raffle and for the conduct of further proceedings, pursuant to Rule 47, Section 6 of the 1997 Revised Rules of Civil Procedure.

Consequently, the instant petition was raffled to RTC, Branch 48, Urdaneta City for reception of evidence. The parties submitted their respective pre-trial briefs[29], followed by the conduct of Pre-Trial Conference[30] on November 7, 2008. Trial thereafter ensued.

Petitioner Remedios testified[31] that: private respondent Adelaida is her aunt, being her father's sister, while private respondents Josephine, Florida, and Sonia are her siblings; her other siblings are Casiano, Eduardo and petitioner Mario; Casiano and Eduardo's share in the inheritance were already given to them by their father; the subject property was registered under the name of their father, Sotrico, and transferred to petitioner Mario who remained in possession of the title; petitioner Remedios was not notified and purposely omitted in the case filed by the private respondents before the RTC Branch 45, while petitioner Mario was in Jaro, Iloilo at the time of filing; she learned of the case about four (4) or five (5) years ago when private respondents wanted to partition the subject property; private respondents tried to eject her from the property; she talked to her siblings and inquired

why she did not have a share; private respondents told her that she did not participate in the case, so she replied why would she participate as the case was between private respondent Adelaida and petitioner Mario; petitioner Remedios is one of the heirs of Sotrico and was the first who constructed a house on the subject property; and, she came to know of the case when private respondents caused the survey of the land.

Petitioners filed their Formal Offer of Evidence[32] on August 11, 2011.

For the private respondents, Sonia Valdez testified[33] that: private respondent Adelaida is her aunt, while private respondents Josephine and Florida are her sisters; the subject property, covering an area of 1,097 square meters, is owned by their father, Sotrico Valdez; a portion thereof was mortgaged by their brother, petitioner Mario, to Batenga and they filed the case to cancel the said mortgage; petitioner Mario fraudulently caused the issuance of his title, and private respondents want the title returned to the name of their father; petitioner Mario did not give them a chance to share in the inheritance from their father; private respondent Sonia and her siblings executed a Deed of Partition as for the 575-square meter portion, and they did not include in the partition the lots sold by petitioner Mario to Spouses Tomines and Rosalina Peralta; the allegation that petitioner Mario did not receive the summons is not true as he was in Nancayasan, Urdaneta at the time it was served; the sheriff delivered summons to both petitioner Mario and Batenga; she even saw petitioner Mario attend the hearing before the RTC, Branch 45, Urdaneta City; petitioner Remedios, meanwhile, knew of the case filed before Branch 45 as they talked to her for many times in 2006; together with private respondents Adelaida and Florida, they informed petitioner Remedios of the case; petitioner Remedios, however, refused to be included; she told them that she already had her own land which was acquired by her sister-in-law; petitioner Remedios was in cohorts with petitioner Mario; most of the time, they accompany each other in processing the papers of the subject property, such as the Deed of Quitclaim; Jose Reyes, husband of petitioner Remedios, even signed the said document; a falsification case was filed against petitioner Mario by their aunt, private respondent Adelaida, and a warrant of arrest was already issued by the MTCC; the case, however, did not continue because petitioner Mario died; and, her siblings Casiano and Eduardo were not included in their complaint as plaintiffs because they already received their share in the inheritance.

The parties stipulated on the testimonies of private respondent Florida, Sheriff Virgilio Domaloy, Atty. Max Pascua, and agreed to dispense with the same.[34]

On August 9, 2012, private respondents filed their Formal Offer of Exhibits.[35]

The parties thereafter submitted their respective Memorandum.[36]

In the Resolution[37] dated June 11, 2014, this Court ordered the Presiding Judge of the RTC, Branch 48, Urdaneta City to submit his Written Report, and the Branch Clerk of Court to submit a written compliance regarding the particulars of the marking of exhibits. In Compliance thereto, Judge Gonzalo P. Marata submitted to this Court his Written Report[38] dated August 4, 2014, together with the Summary of Re-marked Exhibits.

The instant Petition for Annulment of Judgment raises the following issues[39]:

I. THAT EXTRINSIC FRAUD WAS COMMITTED BY THE RESPONDENTS IN THE FILING OF AND EVEN IN THE TRIAL OF CIVIL CASE NO. U-3563, BEFORE THE COURT A QUO WHICH PREVENTED THE PETITIONERS FROM HAVING A FAIR TRIAL;

II. THAT THE RESPONDENT COURT HAS NO JURISDICTION OVER THE PERSONS OF SPOUSES GILBERT TOMINES AND EMILIA TOMINES, ROSALINA PERALTA WHO HOLD VALIDLY ISSUED CERTIFICATES OF TITLE TO PORTIONS OF THE PROPERTY THEN TITLED IN THE NAME OF SOTRICO VALDEZ AND SOFIA R. VALDEZ UNDER TRANSFER CERTIFICATE OF TITLE NO. 23197 (ANNEX "A") AND OVER EDA JANE BATENGA; AND,

III. THAT THE RESPONDENT COURT LACKS JURISDICTION OVER THE SUBJECT MATTER OF THE CASE, MORE SPECIFICALLY THE PROPERTIES TITLED IN THE NAMES OF THE SPOUSES TOMINES AND ROSALINA PERALTA, ORDERED PARTITIONED BY THE RESPONDENT TRIAL COURT.

The petition lacks merit.

After a judicious consideration of the records of the case, this Court finds no cogent reason to annul the assailed Decision dated April 2, 2007 of the RTC, Branch 45, Urdaneta City, Pangasinan as the petitioners failed to sufficiently establish that private respondents employed extrinsic fraud against them in order to deprive them of their day in court.

The pertinent provisions of the Revised Rules of Court state:

“SECTION 1. Coverage. — This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

SECTION 2. Grounds for annulment. — The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

SECTION 3. Period for filing action. — If based on extrinsic fraud, the action must be filed within four (4) years from its discovery; and if based on lack of jurisdiction, before it is barred by laches or estoppel.

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SECTION 6. Procedure. — The procedure in ordinary civil cases shall be observed. Should a trial be necessary, the reception of the evidence may be referred to a member of the court or a judge of a Regional Trial Court.

SECTION 7. Effect of Judgment. — A judgment of annulment shall set aside the questioned judgment or final order or resolution and render the same null and void, without prejudice to the original action being refiled in the proper court. However, where the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the court may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein.”

Petitioners essentially argue that private respondents fraudulently failed to include their sister, petitioner Remedios, in their complaint before the RTC, Branch 45, Urdaneta City. Extrinsic or collateral fraud, as distinguished from intrinsic fraud, refers to any fraudulent act of the prevailing party which is committed outside the trial of the case, whereby the defeated party has been prevented from exhibiting fully her side of the case, by fraud or deception practiced on her by her opponent.[40] The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having her day in court.[41]

Thus, for the instant petition for annulment of judgment to prosper, petitioners Mario and Remedios bear the onus of proving that private respondents employed fraud and deceit upon them to deprive them from participating in the case. Petitioners, however, failed to present sufficient evidence of fraud or deception committed by the private respondents against them.

Firstly, as regards petitioner Remedios, records disclose that it was through her own volition that she chose not to participate in the case against petitioner Mario, the filing of which she knew from the start. Despite knowledge

that petitioner Mario transferred the property to his name and subsequently mortgaged the same, petitioner Remedios did not lift a finger and acquiesced to the case, as it turned out that she approved of petitioner Mario's actuations. Petitioner Remedios' voluntary acquiescence is significant, because in a petition for annulment of judgment, the fraud or deceit cannot be of the losing party's own doing, nor must she contribute to it. Corollarily, the extrinsic fraud must be employed against her by the adverse party, who, because of some trick, artifice, or device, naturally prevails in the suit.[42]

On the element of trickery and deception, it is highly unusual and contrary to common human experience that petitioner Remedios was utterly unaware of the case before the RTC, Branch 45 as she would like this Court to believe, considering that all the parties to the case are neighbors who just resided a few meters from each other, and most importantly, they are siblings who get to talk and see each other on a regular basis as they all live in the same area.

The said milieu, where information travels fast through the grapevine and no secrets are spared, effectively belies any "extrinsic fraud" purportedly employed by the private respondents to exclude petitioner Remedios from the case. For instance, the residence of private respondent Adelaida is just two (2) meters away from that of petitioner Remedios.[43] The house of private respondent Josephine, meanwhile, is merely two (2) feet beside petitioner Remedios' house.[44] Petitioner Remedios stated that at the time of the filing of the case, she was in Nancayasan, Urdaneta with his siblings, whose residences are adjacent to hers.[45] Thus, it is quite odd that petitioner Remedios was entirely clueless of the case filed by her sisters against their brother, petitioner Mario, who also live there. Under the circumstances, this Court gives more credence to private respondent Sonia's declaration that they indeed informed petitioner Remedios several times in 2006, or before the case was filed, and yet she refused to join them. Furthermore, petitioner Remedios could have intervened at any time before the assailed judgment was rendered by the RTC Branch 45, but she chose not to. Now she files the instant petition for annulment of judgment which would effectively lay waste to all the proceeding before the lower court. To affirm the stance of petitioner Remedios would make a mockery of judicial proceedings and efficient administration of justice.

Verily, the extraordinary action to annul a final judgment is restricted to the grounds specified in the rules. There would be no end to litigation if parties who have unsuccessfully availed of any of the appropriate remedies or lost them through their fault could still bring an action for annulment of judgment.[46]

Private respondent Sonia testified:

"Q:

According to her, she said that remedies has no knowledge of the case filed before Branch 45. What can you say to this?

A:

She knows.

Q:

She knows. And after you filed that she knows. How many (sic), did you talk to her?

A:

Yes ma'am.

Q:

When?

A:

2006 ma'am.

Q:

And how many times did you talk to Remedios in 2006?

A:

Many times.

Q:

Where did you talk to her of the Branch 45 case?

A:

In Nancayasan.

Q:

And when you told her about the Branch 45 case, what was her reaction?

A:

We will participate in the case because she has already her own land.

Q:

Aside from that, what else did you tell why she did not want to participate?

A:

Because Mario Valdez and Remedios were is (sic) in cohorts.

Q:

What made you say that they were in cohorts with each other?

A:

Because most of the time they accompany each other and following after in processing their papers about their land.."[47] (Emphasis supplied)

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"Q:

Aside from your claim Madam Witness that the petitioner refused to be included as party-plaintiff to the case for declaration of nullity which you f(i)led before the RTC Branch 45, Urdaneta City, do you have still any concrete evidence to prove such fact?

A:

When we informed her to be included as party-plaintiff in that caser (sic) in Branch 45 she told me that she will no longer join us because she has already a share for her to construct her house being acquired by her sister-in-law, sir."[48] (Emphasis supplied)

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“Q:

Madam Witness you said that “we informed Remedios Valdez before we filed the complaint in Branch 45”, whom are you referring to as “we”?

A:

Josephine and my aunt Adelaida. Florida Valdez and me, ma'am.

Q:

And do you remember how many times did you inform Remedios Valdez before you filed the case in Branch 45?

A:

Many times, ma'am.

Q:

You also stated on cross examination that Remedios lives in Nancayasan, who are the neighbors of Remedios Valdez in Nancayasan?

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A:

Rosalinda Peralta, our aunt Adelaida, Josephine and Remedios, ma'am.

Q:

And how far is the house of Adelaida to the house of Remedios Valdez in Nancayasan?

A:

Just two (2) meters, ma'am.”[49] (Emphasis supplied)

xxx xxx xxx

“Q:

Many times, how many times Madam Witness?

A:

During the proceedings of the case we always reminded her to join us in this case, sir.

Q:

Not before filing?

A:

Before we filed the case we already told her, sir.”[50] (Emphasis supplied)

Petitioner Remedios' refusal to participate in the case is even confirmed by her own testimony:

“Q:

Now, when you were informed madam witness that the case was already terminated and the title was reverted to the name or in the name of your father, what did you do?

A:

I talked to my siblings and inquired why I don't have a share in that property and they told me I did not participate in the case between Adelaida and Mario and I told them why I should participate, it is a case between Adelaida and Mario.”[51] (Emphasis supplied)

From a thorough reading of the records, this Court is convinced that the reason why petitioner Remedios did not join private respondents in their complaint against petitioner Mario before the RTC, Branch 45, is because it turned out that she knew and affirmed of their brother's dispositions. The very fact that petitioner Remedios refused to join the suit already negates any trace or inkling of extrinsic fraud supposedly employed upon her. By voluntarily disassociating herself, petitioner Remedios cannot now come before this Court after the assailed judgment has attained finality, and belatedly claim that she was defrauded from participating in the case. Well-entrenched is the legal tenet that if one maintains silence, when in conscience he ought to speak, as in this case, equity will debar him from speaking when in conscience he ought to remain silent.[52]

Records disclose that petitioner Remedios recognized the validity of the following dispositions: (1) the 183-square meter portion in favor of Rosalina Peralta, (2) 100 square meters to Spouses Tomines, (3) 250 square meters to private respondent Adelaida, and (4) most importantly, 575 square meters to her brother, petitioner Mario, by way of Quitclaim.[53] The said disposition of the 575-square meter portion to petitioner Mario is the very transaction which private respondents sought to annul and recover on the ground it was fraudulent. Petitioner Remedios, however, affirmed the validity of the said transfer, even stating that petitioner Mario spent for its titling and procured a TCT for himself. Significantly, she did not question the mortgage of the said property to Batenga even if it is where she resided.

To the mind of this Court, petitioner Remedios cannot recognize all these dispositions as valid and binding, particularly the titles issued in favor of petitioner Mario, as well as the mortgage he executed in favor of Batenga, and at the same time claim something in her own right as her alleged share, as these positions are diametrically opposed and inconsistent with each other. Unsurprisingly, it was petitioner Remedios who purportedly informed petitioner Mario over the adverse decision and the criminal complaint filed against him by private respondent Adelaida. She cannot now have a sudden change of heart only after the private respondents finally won before the lower court.

It is clear that the filing of the instant case by petitioner Remedios is a mere afterthought, and intended to frustrate the April 2, 2007 Decision which had long attained finality. It bears emphasis that annulling final judgments goes against the grain of finality of judgment. Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause involved therein should be laid to rest. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.[54]

All told, the crux of petitioner Remedios' complaint is the extrinsic fraud allegedly committed against her by the private respondents to exclude her from the case, thus, absent proof of the same, the instant petition for annulment of judgment cannot prosper. In view of the doctrine of finality of judgments, even an erroneous decision could not be annulled without proof of employment of extrinsic fraud.

Indeed, like in other civil cases, the allegation of extrinsic fraud must be fully substantiated by a preponderance of evidence in order to serve as basis for annulling a judgment. Extrinsic fraud has to be definitively established by the claimant as mere allegation does not instantly warrant the annulment of a final judgment. *Ei incumbit probatio qui dicit, non qui negat*. He who asserts, not he who denies, must prove. Ultimately, petitioner Remedios failed to

discharge this burden.[55]

Anent the service of summons to petitioner Mario, petitioner Remedios herself admitted that at the time of filing of the complaint before RTC Branch 45, petitioner Mario was at Nancayasan, Urdaneta at the house of their aunt, Mina Valdez,[56] which statement was confirmed by private respondent Sonia.[57] Contrary to petitioner Mario's contention that he was in Jaro, Iloilo, it was sufficiently established that he received the summons from the lower court as he, in fact, attended the hearing on July 10, 2006. Petitioner Mario's signature plainly appears in the Summons[58] dated June 30, 2006. In support thereof, Sheriff Virgilio Domaloy certified in the Return of Summons[59] that he indeed personally served the summons to petitioner Mario.

It bears emphasis that the sheriffs' certificate of service of summons is prima facie evidence of the facts therein set out. To overcome the presumption of regularity of performance of official functions in favor of such sheriff's return, the evidence against it must be clear and convincing. Unless petitioner could come forward with the requisite quantum of proof to the contrary, the presumption of regularity on the part of said sheriffs' certificate stands.[60] In this case, petitioner Mario's bare denial utterly failed to overcome such presumption.

Verily, the remedy of annulment of judgment is extraordinary in character, and will not so easily and readily lend itself to abuse by parties aggrieved by final judgments.[61] The RTC Branch 45 itself, in its Order[62] dated July 10, 2006, explicitly stated that petitioner Mario was present during the hearing, which confirms his receipt of the summons and the lower court's acquisition of jurisdiction over him.

Further, it may be well to point out that the relief afforded by a petition for annulment of judgment is equitable in character because it strikes at the core of a final and executory judgment, order or resolution, allowing a party-litigant another opportunity to reopen a judgment that has long lapsed into finality.[63] On that note, well-settled is the principle that "he who comes to equity must come with clean hands." Parenthetically, the National Prosecution Service found probable cause[64] against petitioner Mario to indict him for the crime of Falsification of Public Documents, and the corresponding Warrant of Arrest was issued against him by the MTCC of Urdaneta City.[65]

In the same vein, petitioners likewise failed to rebut the presumption of regularity of service of summons to Batenga. This Court finds no cogent reason to discredit the return and certification made by the sheriff, which were noted and considered by the lower court when it issued the Alias Summons.[66] Indeed, the constitutional requirement of due process with respect to service of summons only exacts that the service of summons be such as may reasonably be expected to give the notice desired. The presumption of the regularity of the court proceedings includes presumptions of regularity of service of summons.[67]

Further, with respect to grounds pertaining to Spouses Tomines, Peralta, and even Batenga, it should be pointed out that the said persons are not parties to the instant petition and never questioned the assailed Decision of RTC Branch 45 much less sought its annulment. Succinctly, petitioners Mario and Remedios have no personality to raise such matters if the concerned persons themselves do not raise the same. As the petitioners in this case are only Mario and Remedios, the purported grounds to annul the April 2, 2007 Decision should only relate and pertain to them. The acquiescence of Spouses Tomines, Peralta and Batenga finds relevance if it is taken into consideration that even the ground of lack of jurisdiction for annulment of judgment may be barred by laches or estoppel. Needless to state, if these persons were indeed aggrieved, then it is they who should have filed the petition. Petitioners Mario and Remedios cannot invoke the cause of action of Spouses Tomines and Peralta as their own. It is highly unusual to afford relief to petitioners Mario and Remedios on the basis of how other property owners were aggrieved if these persons themselves do not question the April 2, 2007 Decision. Parenthetically, private respondents already executed a Deed of Partition[68] recognizing the dispositions made in

favor of Spouses Tomines and Peralta, and they partitioned only the 575-square meter portion of the subject property.

As a final note, it should be borne in mind that since it is not an appeal, the correctness of the judgment is not an issue in a case for annulment of a trial court judgment.[69] Truly, an action to annul a final judgment is an extraordinary remedy, which is not to be granted indiscriminately and allowed only in exceptional cases.[70] The reason for the restriction is to prevent this extraordinary action from being used by a losing party to make a complete farce of a duly promulgated decision that has long become final and executory.[71]

WHEREFORE, premises considered, the instant petition is hereby DISMISSED.

No costs.

SO ORDERED.

Lantion, J.A.C.,[*] and Macalino, F.S., JJ., concur.

[*]Acting Sr. Member vice J. Vicente S.E. Veloso per Office Order No. 513-14-RSF dated December 5, 2014.

[1] Rollo, pp. 1-19

[2] Rollo, pp. 35-40, penned by Judge Joven F. Costales

[3] Rollo, pp. 39-40

[4] Rollo, pp. 22-26

[5] Rollo, pp. 30-31

[6] Rollo, pp. 27-28

[7] Rollo, p. 101

[8] Rollo, p. 32

[9] Rollo, pp. 33-34

[10] Rollo, pp. 137, 139

[11] Rollo, pp. 47-48

[12] Rollo, p. 49

[13] Rollo, p. 50

[14] Rollo, p. 51

[15] Rollo, pp. 52-53

[16] Rollo, p. 53

[17] Rollo, pp. 56-68

[18] Rollo, pp. 69-72

[19] Rollo, pp. 73-87

- [20] Rollo, pp. 35-40
- [21] Rollo, pp. 88-90
- [22] Rollo, p. 91
- [23] Records, pp. 2-20
- [24] Records, pp. 122-133
- [25] Records, pp. 136-137
- [26] Records, p. 144
- [27] Records, pp. 138-140
- [28] Records, p. 145
- [29] Records, pp. 166-171; pp. 175-176
- [30] Records, pp. 182-184
- [31] Transcript of Stenographic Notes of the testimony of Remedios Valdez Reyes taken on August 25, 2009, September 23, 2010, November 9, 2010, January 25, 2011, March 24, 2011
- [32] Records, pp. 313-331
- [33] Transcript of Stenographic Notes of the testimony of Sonia Valdez taken on February 16, 2012, May 8, 2012, August 9, 2012
- [34] Records, p. 377; Transcript of Stenographic Notes dated August 9, 2012, p. 12
- [35] Records, pp. 378-393
- [36] Records, pp. 397-417; pp. 418-426
- [37] Records, pp. 428-429
- [38] Records, pp. 433-436
- [39] Rollo, p. 11
- [40] Marcelina Gacutana-Fraile v. Angel Domingo, G.R. No. 138518. December 15, 2000.
- [41] Pablo Tolentino v. Oscar Leviste, G.R. No. 156118. November 19, 2004.
- [42] Antonio Tan v. Court of Appeals, G.R. No. 157194. June 20, 2006.
- [43] Transcript of Stenographic Notes dated August 9, 2012, pp. 9-10
- [44] Transcript of Stenographic Notes dated March 24, 2011, p. 4
- [45] Transcript of Stenographic Notes dated September 23, 2010, p. 9; Transcript of Stenographic Notes dated November 9, 2010, p. 3
- [46] Hermana Cerezo v. David Tuazon, G.R. No. 141538. March 23, 2004.
- [47] Transcript of Stenographic Notes dated May 8, 2012, p. 3
- [48] Transcript of Stenographic Notes dated August 9, 2012, p. 7

- [49] Transcript of Stenographic Notes dated August 9, 2012, pp. 9-10
- [50] Transcript of Stenographic Notes dated August 9, 2012, p. 11
- [51] Transcript of Stenographic Notes dated January 25, 2011, p. 10
- [52] Philippine Bank of Communications v. Court of Appeals, G.R. No. 106858. September 5, 1997.
- [53] Rollo, p. 93
- [54] Rodolfo Ramos v. Alfonso Combong, Jr., G.R. No. 144273. October 20, 2005.
- [55] Virginia Gochan v. Charles Mancao, G.R. No. 182314. November 13, 2013.
- [56] Transcript of Stenographic Notes dated September 23, 2010, p. 11; Transcript of Stenographic Notes dated January 25, 2011, p. 8
- [57] Transcript of Stenographic Notes dated February 16, 2012, p. 9
- [58] Rollo, p. 137
- [59] Rollo, p. 139
- [60] Lazaro v. Rural Bank of Francisco Balagtas, G.R. No. 139895. August 15, 2003.
- [61] Valentin Fraginal v. Heirs of Parañal, G.R. No. 150207. February 23, 2007.
- [62] Rollo, p. 138
- [63] Virginia Gochan v. Charles Mancao, G.R. No. 182314. November 13, 2013.
- [64] Rollo, pp. 134-135
- [65] Rollo, p. 136
- [66] See Rollo, pp. 47-51
- [67] Masagana Concrete Products v. NLRC, G.R. No. 106916. September 3, 1999 citing Associated Ins. & Surety Co. v. Banzon, 26 SCRA 268.
- [68] Rollo, pp. 132-133
- [69] Republic of the Philippines v. Heirs of Magdato, G.R. No. 137857. September 11, 2000.
- [70] Virginia Gochan v. Charles Mancao, G.R. No. 182314. November 13, 2013.
- [71] Mary Grace Veneracion v. Charlie Mancilla, G.R. No. 158238. July 20, 2006.

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