JOSEFINA APOLDO, PLAINTIFF-APPELLANT, VS. MIGUEL ALVIOR, ROQUE SOLIS, JOSE NARIO ALVIOR, NONORIO PANAGUITON, JUANITO TAO-TAO, SAMUEL BUTT AND MINA QUINTERO, DEFENDANTS-APPELLEES...

Ponente: LLOREN, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/c60c9976a9a7/

LLOREN, J.:

This is an Appeal under Rule 41 seeking to set aside the Joint Decision[2] dated October 11, 2010 of the Regional Trial Court Branch 6, 10[th] Judicial Region, Prosperidad, Agusan del Sur, in Civil Case Nos. 870 and 1137, an action for Recovery of Possession, Quieting of Title with Damages and Annulment of Certificate of Titles with Damages, respectively. Its fallo reads:

WHEREFORE, judgment is hereby rendered:

- Declaring that plaintiff Josefina Apoldo and her daughters sold 13,000 square meters of their Lot 4270, Pls-67 in San Isidro, San Francisco, Agusan del Sur to Barangay San Isidro which paid valuable consideration therefor and thus is declared the owner of said portion which it has used as its barangay site and for which the LGU shall honor its commitments to subdivision lot buyers;

- Affirming the ownership of Romeo Perez, Jr. over the portion of 20,000 square meters covered by his Katibayan ng Original na Titulo Blg. P-17383 registered on August 16, 1996;

- Declaring as qualifiedly valid the original titles issued to the plaintiffs Josefina Apoldo and her children/successors in interests, namely: KOT P-17621 of Josefina Apoldo; KOT P-17580 of Mildred Crisosto; KOT P-17619 of Mejelinde Panaguiton; KOT P-17620 of Adelita Artigo; KOT P-17579 of Merlinda D. Escobido; KOT P-17578 of Leonidas Lademora; and KOT P-17581 of Rosario Libando, but only insofar as these titles do not overlap the aforesaid 13,000 square-meter barangay site. For this purpose the PENRO of Agusan del Sur is directed to relocate the said barangay site in coordination with Barangay San Isidro represented by its incumbent Punong Barangay, and to thereafter (a) issue and cause to be registered with the Register of Deeds of this Province, in the name of Barangay San Isidro, the corresponding certificate of title thereon, correspondingly cancel any overlapping certificate of title issued to Josefina Apoldo and/or her children/successors in interest, and re-issue transfer certificates to them less the 13,000 sq.m. Barangay site or portion thereon overlapped. Accordingly, any of the Apoldos who are adversely affected shall be compensated by the others so that each shall maintain the same proportionate areas in relation to the others.

No costs,

SO ORDERED.

The facts as culled from the records:

Sometime in the year 1966, Josefina Apoldo (Josefina) bought from Policarpio Abayabay an agricultural land, identified as Lot No. 4270, Pls-67, situated at San Isidro, San Francisco, Agusan del Sur, consisting of 91, 514 square meters.[3]

On February 27, 1978, Josefina mortgaged the aforecited lot with the Development Bank of the Philippines (DBP) to obtain a loan in the amount of P43, 900.00[4]

Later on, Josefina ran out of cash to pay her loan obligation with the DBP. This prompted Josefina, together with her children, to approach Fernando Dapar, who was then the Barangay Captain of San Isidro, for some help. Consequently, an agreement was reached by the parties and an Affidavit of Waiver[5] dated February 1, 1985 was executed by Josefina, the substantial portion of which reads:

> That I am the legal owner and occupant of a parcel of agricultural land located at Barangay San Isidro, San Francisco, Agusan del Sur, known as Lot No. 4270, Pls-67, titled.
>
> That the said parcel of land is a collateral of my agricultural loan with the Development Bank of the Philippines, San Francisco Branch, San Francisco, Agusan del Sur.
>
> That because of the present economic crisis and of my old age, I was not able to comply with the amortization payment of my loan amounting to ONE HUNDRED TWENTY SEVEN THOUSAND (P127,000.00) PESOS more or less covering all charges accrued to the bank.
>
> That in view of the above-mentioned reasons, I am no longer interested to continue my claim and rights over said parcel of land.
>
> That I am transferring, relinquishing and waiving all my rights and interests over said parcel of land in favor of Barangay San Isidro, San Francisco, Agusan del Sur, represented by the Barangay Captain, Fernando Dapar, his successors and assigns together with all the improvements found thereon, free from all liens and encumbrances. Provided, that the Barangay of San Isidro will assume all my responsibilities and obligations to the Development Bank of the Philippines, San Francisco Branch, so, I will be relieved from all obligations to the Bank, which I feel very heavy and burden on my part.
>
> That Barangay of San Isidro represented by the Barangay Captain, Fernando Dapar, with its officials can now transact business with the Development Bank of the Philippines, at San Francisco, Agusan del Sur.

Barangay San Isidro intended the subject lot as a Barangay Site, where it will be subdivided into smaller lots and be sold in an installment basis to the qualified residents of the barangay.

Subsequently, appellees purchased from the barangay some of the subdivided lots. They then built their houses thereon while others erected fences on their lot.

On July 22, 1985, Josefina and her children received honorariums from Barangay San Isidro in the amount of P 5,000.00 representing the proceeds of the subdivided lots which were formerly owned by the former.[6] Several other payments were made by the barangay to Josefina.[7]

Aside from the payments made to Josefina, Barangay San Isidro also paid the former's loan account at the DBP. Per DBP Certification dated February 26, 1992,[8] Barangay San Isidro has paid a total of P 33,000.00.

Sometime in the year 1992, Josefina filed Civil Case No. 870, a case for Recovery of Possession and Quieting of Title, against herein appellees. Josefina alleged that she owns the subject land but appellees, abetted by barangay officials, usurped a portion of less than a hectare and built their houses thereon, refusing to leave despite demands.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Later on, Josefina, with the help of Romeo Perez, Jr., paid the remaining balance of her loan at the DBP and on February 24, 1995, the mortgage on the subject land was canceled.[9]

Thereafter, Josefina sold a portion of the subject land, around 20,000 square meters, to Romeo Perez, Jr. Eventually, Josefina, her children, and Romeo Perez, Jr. filed their patent applications with the Department of Environment and Natural Resources. Thereafter, the Original Certificates of Title were issued in their favor sometime in the month of September 1996.[10]

On November 18, 1997, appellees filed a Complaint[11] for Annulment of Certificates of Title with damages docketed as Civil Case No. 1137. Appellees sought to declare void the certificates of title over the subject lot registered under the names of Josefina, her children and Romeo Perez, Jr. who, as then regional director of the Department of Agrarian Reform fraudulently caused the titling of the land in their names.

In an Order dated October 2, 2003, the court a quo, with the conformity of the parties, resolved to hear the two civil cases at the same time.[12]

Josefina and the rest of the defendants-appellants mainly argued that while they admit that they received some payments from the Barangay San Isidro, the latter failed to fully settle the loan obligation with the DBP. Due to such failure, Barangay San Isidro abandoned the lot as a barangay site. Afraid that the bank might foreclose her land, Josefina, with the help of Romeo Perez, Jr., paid her entire loan obligation with the DBP. Josefina maintained that she never sold or disposed the land in favor of Barangay San Isidro.

The court a quo summarized the evidence for the appellees in this wise:[13]

> Barangay Kagawad Rufina Dakay confirmed her signature as witness on the Affidavit of Waiver over Lot 4270 executed by Apoldo in favor of the Barangay which paid various amounts to Apoldo as well as P33,000.00 to the DBP, and that she was among those who bought and occupied subdivision lots in the barangay site.[14]
>
> Efren Mosquera, barangay kagawad in 1997 to 2002, then barangay captain up to 2004 and now a member of the Sangggguniang Bayan of San Francisco, confirmed that by virtue of Apoldo's relinquishment of Lot 4270, the Barangay paid P36,000.00 to her and P33,000.00 to the bank, averting foreclosure of the lot which the barangay thereafter subdivided as a barangay site and sold to several individuals per records turned over to him and to the treasurer by former Barangay Captain Dapar, listing 40 buyers of specified lots.[15] Barangay Resolution No. 41[16] dated December 28, 1993 did not transfer the barangay site to Purok 6 but as can be seen on its face, simply expanded the site by approving “the proposed xxx Barangay site Subdivision of Purok VI, San Isidro, San Francisco xxx owned by the Barangay Government containing an area of 1.3 ha. (13, 000 sq. m.) of Lot 4207 and 8, 000 sq. m. of Lot 4208." The barangay site was not abandoned as there are occupants and there was no resolution reverting the lot to Apoldo and no DBP notice of foreclosure.[17]
>
> Rowena Aure, barangay treasurer since 2004, brought to the court the barangay original records of the lot of Josefina Apoldo, as turned over to her by her predecessors, including Apoldo's affidavit of waiver, DBP certification on payments by the Barangay and vouchers in favor of Josefina Apoldo.[18]
>
> Randulfo Quintero, assistant manager of an oil palm plantation, testified that he and other defendants bought from the barangay subdivision lots measuring 15 by 30 m. for P8, 000.00, where they built their houses, but they were dispossessed by the Apoldos who destroyed their fences and occupied their areas without refunding them. He prayed for the recovery of their lots.[19]

On October 11, 2010, the court a quo issued the assailed Joint Decision declaring that Josefina and her children sold 13,000 square meters of their lot to appellees, among others. It ratiocinated as follows:

> The court finds that Josefina Apoldo sold and delivered the subject lot to the Barangay as shown by the

following documents:

- February 1, 1985 – Josefina Apoldo executed an Affidavit of Waiver xxx

- July 22, 1985 – Apoldo and her daughters signed an acknowledgment that they -

> xxx received this date the amount of P5,000.00 from the barangay officials of San Isidro xxx as partial payment of the honorarium voluntarily offered by the said barangay officials xxx representing the proceeds of the subdivided lot formerly owned by us, loaned to the DBP and was foreclosed.

- July 31, 1985 – Nine days after the down payment, the barangay officials led by Barangay Captain Fernando Dapar executed an undertaking -

> To settle the balance amount of P 28,000.00 as honorarium pay to Mrs. Josefina Apoldo, on October 1985, depending on the availability of funds to be collected from the qualified occupants of the subdivided lot formerly owned by Mrs. Josefina Apoldo and heirs.

- Having entered their respective subdivision lots, the defendants (appellees) built and occupied houses thereon up to the present, as testified to by Apoldo's daughter Leonidas Lademora and son-in-law Artemio Artigo.

- In addition to the initial payment of P5,000.00, the Apoldos acknowledged succeeding payments from the Barangay treasurer of various amounts shown by their handwritten receipts, the total of which, as of August 9, 1986, reached P33,000.00 as admitted by the Apoldo's daughter Adelita Artigo.

- August 11, 1986 up to March 18, 1991 – the Barangay made seven payments to the DBP loan account of Josefina Apoldo, also totaling P33,000.00 per Certification of the DBP Manager.

> The LGU therefore spent a total of P66,000.00 by virtue of its purchase of the barangay site.
>
> xxx
>
> But even assuming, as plaintiffs insisted, that the Barangay defaulted, when may it be deemed to have defaulted?
>
> It should be noted that the condition imposed by Apoldo in waiving her rights on the land was for the Barangay to settle her DBP account so as to discharge the mortgage on the lot. Although no period was stated, it is obvious that the account must be settled before the bank foreclosed the mortgage, which under Art. 1193 of the Civil Code is "a day certain" because "it must necessarily come, although it may not be known when."
>
> But despite the claims of the parties that the mortgage was foreclosed, the evidence shows that the bank neither foreclosed, nor was it about to foreclose, the mortgage. There was no notice of foreclosure. In fact Perez was allowed to amortize the Apoldo account, finally discharging the mortgage with his full payment totaling P95,677.62 on February 13, 1995 – three years after the filing of the Apoldo complaint in 1992.
>
> Indeed, plaintiffs presented no evidence that the bank made a demand on Josefina Apoldo for the payment of her loan, which is essential before foreclosure can proceed. Absent such demand, the loan had not yet become due and demandable and foreclosure would be premature.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> But since the transaction between Apoldo and the barangay failed to fix a period for the latter to pay her bank account, Apoldo should have gone to court to rescind the contract or fix the period:
>
> xxx
>
> Clearly, Josefina Apoldo had no right to unilaterally declare as rescinded the sale of a portion of her lot to the Barangay. Her alternative legal remedy was to go to the court either to fix the period for the barangay to pay her bank loan, or for the rescission of the contract of sale. But she did neither. She did go to court to file this complaint in August 1992 for "recovery of possession, quieting of title and damages" but totally concealing her transaction with the barangay from which she had already benefited by P66,000.00. And, most important to her interests, the mortgage that weighed heavily on her lot was finally discharged when her loan was settled by Romeo Perez, Jr., obviously a separate transaction.
>
> xxx
>
> The ruling that the vendee is not deemed to be in default if there is no such demand for rescission applies with more weight in the instant case where no period to pay was agreed upon, there was no provision for automatic rescission, and no demand was made by Apoldo for rescission.

Aggrieved by the ruling of the court a quo, appellants interposed the present appeal with the following assignment of errors, to wit:

> **I.**
>
> THE COURT A QUO SERIOUSLY ERRED IN FAILING TO FIND THAT PLAINTIFFS-APPELLEES DOES (SIC) NOT HAVE CAUSE OF ACTION DIRECTLY AGAINST DEFENDANTS-APPELLANTS APOLDOS BUT AGAINST BARANGAY SAN ISIDRO. THAT IN FAILING TO IMPLEAD BARANGAY SAN ISIDRO IN CIVIL CASE NO. 1137 AS INDISPENSABLE PARTY, THE COURT A QUO DID NOT HAVE JURISDICTION OVER THE SAME, HENCE, SERIOUSLY ERRED WHEN IT INCLUDED BARANGAY SAN ISIDRO IN THE JOINT DECISION.
>
> **II.**
>
> THE COURT A QUO SERIOUSLY ERRED IN ENTERTAINING THE INSTANT CASE THUS DISREGARDING THE PRIMARY JURISDICTION OF THE DENR ON QUESTIONS OF REVERSION OF CERTIFICATES OF TITLES ORIGINALLY ISSUED BY THE STATE.
>
> **III.**
>
> THE COURT A QUO FURTHER SERIOUSLY ERRED IN NOT FINDING THAT THE ISSUANCE OF ORIGINAL CERTIFICATES OF TITLE(S) IN FAVOR OF THE APOLDOS BY THE DENR WERE VALID. THE APOLDOS RETAINED PROPER CLAIMS OF THE QUESTIONED PROPERTIES.[20]

Anent the first issue, appellants posit that in filing Civil Case No. 1137, appellees failed to implead Barangay San Isidro as an indispensable party. No summon was issued to Barangay San Isidro. It should be noted that appellees alleged that they bought their lots from Barangay San Isidro to be developed as barangay housing site. Barangay San Isidro should therefore have been impleaded as party defendant if an action to recover is filed with respect to the portion of the lot intended as Barangay site.

The contention is not tenable.

It should be noted that Josefina was the one who first filed the complaint against appellees way back in 1992. Josefina did not implead Barangay San Isidro despite the fact that she was aware of the existence of her Affidavit

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

of Waiver and that Barangay San Isidro will utilize the land as a Barangay Site; that it was by virtue of her waiver that appellees were able to take possession and build their respective houses in the subject lot. Appellees challenged Josefina's claim because the former have legal interest on the portion of the land after they bought it from Barangay San Isidro. After knowing that the portion of land they purchased had been included in the title of Josefina and Romeo Perez, Jr., they then filed an action for reconveyance for the return of the land they purchased from the Barangay.

Moreover, Section 5, Rule 10 of the Rules of Court provides that issues not raised in the pleadings may be tried by express or implied consent of the parties, as if they had been raised in the pleadings and the court can validly resolve them. There is express consent to the evidence on an issue not raised in the pleading when the adverse party agrees to its presentation made by the other party. There is implied consent when the adverse party fails to object thereto.

The general rule is that a judgment must conform to the pleading and the theory of the action under which the case is tried. But the court may also rule and render judgment on the basis of the evidence before it, even though the relevant pleading has not been previously amended, so long as no surprise or prejudice to the adverse party is thereby caused and there is express or implied consent to the presentation of evidence. In fact, there is no need to formally amend the pleadings to raise the issues because such issues are considered as if they have been in the pleadings.[21]

In the case at hand, appellees presented evidence which established the fact that Barangay San Isidro indeed bought the portion of land now occupied by the appellees. Appellees presented Rufina Dakay, who was then a Barangay Kagawad at the time of the execution of the Affidavit of Waiver and was one of the signatories in the said affidavit as a witness. Appellees also presented Efren Mosquera, a former barangay captain of Barangay San Isidro, who testified on the payments made by the barangay to the bank and to Josefina. Further, the incumbent Treasurer and Secretary of the barangay were presented to testify on the records of the barangay regarding the said relinquishment of Josefina in favor of the barangay. It should be noted that appellants never raised an eyebrow when the aforementioned evidence were presented before the court a quo.

Anent the second issue, appellants emphasize that their titles were originally granted by the state, them being original certificates of title with patent numbers. Appellants aver that appellees have no standing to file the complaint for annulment of certificates of title since they actually ask for cancellation and attack the issuance by the state of the original title. Appellees should have first filed an administrative action before the Bureau of Lands. If favorably ruled, consequently an action for reversion will be filed by the Office of the Solicitor General. Appellants then cited the following ruling of the Supreme Court in the case of Seville vs. NDC,[22] to wit:

Where the subject land was public before the sales patent was issued, a private party has no standing to ask for the reconveyance of the property to him, the proper party in an action for reversion which may be instituted only by the Office of the Solicitor General.

The contention is not meritorious.

Contrary to the allegation of the appellants that appellees' action is one for reversion, the allegations in the latter's complaint show that it is one for declaration of nullity of the certificates of title issued to herein appellants.

In the case of Heirs of Ambrocio Kionisala vs. Heirs of Honorio Dacut,[23] the Supreme Court distinguished an action for reversion from an action for declaration of nullity of free patents and certificates of title as follows:

> An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the

> realty whose title is sought to be nullified. In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence in Gabila v. Barriga where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were canceled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.
>
> On the other hand, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void ab initio. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant.

In their Complaint, appellees were emphatic in their claim that they were the owners of the land where they have built their houses. Barangay San Isidro purchased the land from Josefina to make the said land a Barangay Site. Consequently, Barangay San Isidro sold the lots to interested applicants and among those who bought were the appellees. Despite the sale of the land to the Barangay San Isidro and the fact that appellees have already legally occupied the land as early as in the year 1985, appellants, through fraud, obtained title to such land. Certainly, the complaint was not for reversion but for the declaration of nullity of the certificates of title. Hence, appellees were the real party in interest and have the legal standing to file the complaint.

It is clear in the records that appellants filed a case for recovery of possession against appellees in 1992. Such fact would clearly establish that the appellees were in possession of their respective lots prior to the patent application of the appellants in 1995.

Anent the last issue, appellants claim that their transaction with Barangay San Isidro was not perfected as the latter failed to comply with its obligation in assuming the mortgage with the DBP. Since Barangay San Isidro lacked the necessary financial capability to assume the mortgage, it follows that their agreement failed to materialize. Hence, appellants contend that they have the right to rescind the contract pursuant to Article 1191 of the Civil Code. Also, no Deed of Sale was ever executed by the parties concerning the portion of land claimed by the appellees. Appellants further posit that with the non-involvement of the DBP on the transaction between the Apoldos and Barangay San Isidro on the alleged assumption of mortgage, there is more reason to believe that there was no perfection at all of the said agreement.

Appellees' allegation that their transaction with Barangay San Isidro was not perfected due to the latter's failure to assume the mortgage is not well-taken. The court a quo aptly discussed in the assailed Decision that Josefina sold and delivered the subject lot to the Barangay San Isidro. The subsequent transactions between the parties from the time Josefina executed her Affidavit of Waiver, up to the latter's receipt of payments from the barangay, and in the payment of the barangay to DBP of Josefina's loan obligation clearly painted a picture of not only a perfected contract but its consummation as well.

There is no merit in appellants' assertion that there was no perfected contract of sale because no Deed of Sale was ever executed by the parties. As discussed by the court a quo, a contract of sale is a consensual contract that is perfected upon a meeting of minds as to the object of the contract and its price. Subject to the provisions of the Statute of Frauds, a formal document is not necessary for the sale transaction to acquire binding effect.

The non-involvement of the bank does not in any way affect the validity of the agreement of the parties. Further, a

perusal of the records of the case would reveal that contrary to the allegation of the appellees, DBP was well aware of the Affidavit of Waiver executed by Josefina. The Department Manager of DBP San Francisco Branch issued a Certification[24] dated February 26, 1992 which reads:

> This is to certify that the Barangay Council of San Isidro, San Francisco, Agusan del Sur, represented by the Barangay Captain Mr. Fernando Dapar has paid the loan account of Mrs. Josefina Apoldo per Affidavit of Waiver dated February 1, 1985 xxx

Moreover, not an iota of evidence was presented by the appellants to support its claim that Barangay San Isidro has abandoned the Barangay Site or its claim that the subject lot was in imminent danger of foreclosure by the bank.

In all, this Court finds no cogent reason to overturn the decision of the court a quo.

This Court will also resolve the Motion to Render Partial Entry of Judgment and to Cancel Notice of Lis Pendens[25] filed by defendant Romeo Perez Jr.

In a Resolution[26] dated October 19, 2012, this Court dropped Romeo Perez, Jr. as an appellant in the instant case, thus:

> The Court RESOLVES to GRANT defendant-appellant Romeo Perez, Jr.'s Notice of Withdrawal and/or Clarification of Appeal filed on September 26, 2012 and ORDERS that his name be DROPPED as one of the appellants in this appealed case.

It should be recalled that in the Joint Decision of the court a quo, part of the dispositive portion reads:

- Affirming the ownership of Romeo Perez, Jr. over the portion of 20,000 square meters covered by his Katibayan na Original na Titulo Blg. P-17383 registered on August 16, 1996;

In its Motion, Romeo Perez, Jr. posits that with the consequent dropping of his name as an appellant in this case, the Joint Decision of the court a quo has been rendered final and executory on his part. Romeo Perez, Jr. thus begs this Court to render a partial entry of judgment in so far as he is concerned on the Joint Decision dated October 11, 2011 of the RTC Branch 6, Agusan del Sur and to cancel the notice of lis pendens annotated on his OCT.

Per JRD Verification report dated February 4, 2013, no Comment had been filed by the appellees on the aforecited Motion of Romeo Perez, Jr.[27]

This Court approves the motion of Romeo Perez, Jr. With the withdrawal of his appeal in accordance with Section 3, Rule 50[28] of the Rules of Court, it follows that the Joint Decision of the court a quo is now final and executory in so far as Romeo Perez, Jr. is concerned.

Consequently, it is but apt at this point that the notice of lis pendens annotated on Romeo Perez Jr.'s OCT should be canceled.

Sec. 14, Rule 13 of the 1997 Rules of Civil Procedure, provides that a notice of lis pendens may be canceled on two grounds: (1) if the annotation was for the purpose of molesting the title of the adverse party, or (2) when the annotation is not necessary to protect the rights of the party who caused it to be recorded.

The court a quo explicitly discussed in its Joint Decision that the lot now owned by Romeo Perez, Jr. did not overlap the 1.3 hectare barangay site; that Romeo Perez, Jr. and the appellees have occupied separate portions of land.[29] Hence, the annotation of lis pendens on Romeo Perez, Jr.'s Katibayan ng Orihinal na Titulo Blg. P-17383 is no longer necessary to protect whatsoever rights the appellees may have in the said title.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Furthermore, with the withdrawal of Romeo Perez, Jr's appeal, and since there is no showing that appellees had filed any other case involving the lot of Romeo Perez, Jr., there is no longer any pending suit to speak of.

WHEREFORE, premises considered, the Appeal is DISMISSED. The Joint Decision dated October 11, 2010 of the Regional Trial Court Branch 6, 10th Judicial Region, Prosperidad, Agusan del Sur, in Civil Case Nos. 870 and 1137 is hereby AFFIRMED in toto.

Let a partial entry of judgment be issued as to Romeo Perez, Jr. on the Joint Decision dated October 11, 2010. The Register of Deeds of Agusan del Sur is hereby ordered to cancel the Notice of Lis Pendens annotated on the Katibayan ng Orihinal na Titulo Blg. P-17383 in the name of Romeo Perez, Jr.

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.

Azcarraga-Jacob and Contreras, JJ., concur.

---

[1] Died during the pendency of the appeal, Rollo, p. 34; Also referred in the records as Josephina Apoldo

[2] Records, pp. 493 – 504, penned by Hon. Dante Luz N. Viacrucis, Executive Judge

[3] TSN dated November 23, 1995, pp. 5 - 6

[4] Records, p. 7

[5] Id, p. 8

[6] Records, p. 9

[7] Id, pp. 10 -13

[8] Records, p. 15

[9] Exhibits for Defendants, Exhibits “4” - “10”, pp. 430 - 433

[10] Exhibits for Plaintiffs, Exhibits “I” to “P”, pp. 310 - 324

[11] Records, pp. 1 -5

[12] Id, p. 204

[13] Records, p. 495

[14] Exhibits for the Plaintiffs, Exhibit “Q”, p. 325; TSN dated August 25, 2005, pp. 3 - 7

[15] Exhibits for the Plaintiffs, Exhibit “S”, p. p. 330

[16] Records, p. 53

[17] Exhibits for the Plaintiffs, Exhibit “R”, pp. 327 – 339; TSN dated February 20, 2007, pp. 2 - 10

[18] TSN dated February 13, 2007, pp. 3 - 12

[19] TSN dated March 27, 2007, pp. 2 - 14

[20] Rollo, pp. 34 - 35

[21] Panganiban vs. Spouses Roldan, G.R. No. 163053, November 25, 2009

[22] G.R. No. 129401, February 2, 2001

[23] G.R. No. 147379, February 27, 2002; cited in Soquillo vs. Tortola, G.R. No. 192450, July 23, 2012

[24] Records, p. 15

[25] Rollo, pp. 65 - 66

[26] Id, p. 23

[27] Rollo, p. 69, dp

[28] Sec. 3. Withdrawal of appeal. An appeal may be withdrawn as of right at any time before the filing of the appellee's brief. Thereafter, the withdrawal may be allowed in the discretion of the court.

[29] Records, p. 502

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.