

**NEMESIO DOINOG AND THE HEIRS OF DONATA DOINOG,
REPRESENTED BY MERLA D. JAROPOJOP, PLAINTIFFS-APPELLEES,
VS. VICTORIA MACABIDANG, DEFENDANT-APPELLANT.**

Ponente: QUIJANO-PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ecd43e025ac9/>

QUIJANO-PADILLA, J.:

This is an appeal from the Decision[1] dated May 28, 2007, of the Regional Trial Court, 8[th] Judicial Region, Branch 31, Calbayog City, in Civil Case No. 348 for Ownership and Recovery of Property.

The Facts

The instant action stems from the Complaint filed by plaintiffs-appellees on July 27, 1989 before the RTC, which reads:

“ Plaintiffs through counsel, allege:

1. [T]hat they are all of legal age, each with capacity to sue and to be sued, and with their respective residences, as follows:

Name of Heir Residence

MERLA D. JAROPOJOP Brgy. Cabanatuan, Oquendo District

ANICETA CATAMORA Brgy. Tomaliges, Calbayog City

FE JOSE Brgy. Payahan, Calbayog City

MERCEDES OPANES Brgy. Pilar, Oquendo District

EDITHA ALEJANDRINO Brgy. Trinidad, Calbayog City

EDUARDO DOINOG Manila

EDITO DOINOG Poblacion, Calbayog City

EDILBERTO DOINOG Brgy. Trinidad, Calbayog City

BENITO DOINOG Brgy. Trinidad, Calbayog City

MARIA MEDY DOINOG Brgy. Trinidad, Calbayog City

MARIA NELY DOINOG Brgy. Trinidad, Calbayog City

Defendant is likewise of legal age, with capacity to sue and to be sued, and a resident of Brgy. Cabatuan, Oquendo District, Calbayog City, where she may be served with summons;

2. That plaintiffs are the heirs of Donata Doinog, who in her lifetime together with Nemesio Doinog, acquired the three-fourths ($\frac{3}{4}$) portion/share of real property situated at [Brgy.] Cabatuan, Orquendo District, Calbayog City,

more particularly described as follows:

“A parcel of agricultural land with an area of more or less 46,894 square meters, covered by a tax declaration no. 08993 in the name of Victoriano Alandino, bounded as follows: North-Bonifacio Lentejas; South- Jorge Bonguet; East-Cagbanacarao Brook; and West- Solop Brook assessed at P720.00”

3. That in 1973 Donata Doinog mortgaged all her interest in the above described property via a public document of sale but with a collateral understanding that defendant-mortgagee will take over possession and management of the land the produce thereof;

4. That in the year 1976, Donata Doinog redeemed said mortgage and demanded for the return of possession of her $\frac{3}{4}$ portion/share but the latter then refused. When Donata Doinog died, her heirs (plaintiffs) demanded again from the same defendant the return of the possession of the land but again refused until the present;

5. That the land yields a quarterly produce of 3,000 nuts equivalent to P1,500.00 and 80 cavans of palay per harvest season, equivalent to P8,000.00 more or less;

6. That to protect their rights and interest over that land, they were forced to litigate and incurred expenses in the process.

WHEREFORE, it is prayed that after hearing, defendants be ordered to:

1. Recognize the ownership of $\frac{3}{4}$ of the land described in par.2 hereof, and to turn over the same to plaintiffs;
2. To pay plaintiffs actual damages in the form of unrealized share of the plaintiffs from the harvest of that land, as abovestated;
3. And to pay plaintiff(s) the reimbursement of their litigation expenses as may be proved during the trial.

Plaintiffs pray for such other relief which they may be entitled under the law.”[2]

Donata Doinog [Donata] married Nemesio Doinog [Nemesio] and out of that marriage they have eleven [11] children, herein plaintiffs-appellees. The land subject of this controversy is owned by Victoriano Alandino [Victoriano] and Demetria Alandino [Demetria], which land is particularly described as follows:

“A parcel of coconut and riceland (unirrigated), bounded on the North by Bonifacio Lentejas and Pedro Moncano; South by Jorge Bonguet; East by the Cagbancaro Brook; and West by Solop Brook; having an area of 4 hectares more or less and assessed at P662.05.” [3]

It was declared for taxation purposes under Tax Declaration No. 08993 in the name of Victoriano.

Victoriano and Demetria had three [3] children namely: Donata Alandino, Gloria Alandino and Patricio Alandino. Donata married Nemesio Doinog while Patricio married herein defendant-appellant Victoria Macabidang [Victoria]. On April 17, 1973, Victoriano died and two [2] days later his son, Patricio also passed away.

On December 4, 1973, Demetria, executed a Deed of Absolute sale in favor of Donata involving “one-half determinate portion towards the south of the rice land only” for a consideration of Five Hundred Pesos [P500.00].[4]

On the same day, Donata's sister Gloria, likewise executed a Deed of Absolute Sale of her share in favor of the former, which share was described as “one-third of the one-half portion only of the riceland above-described.”[5]

Apart from that, on April 6, 1979, Demetria and Gloria executed a Deed of Quitclaim and Renunciation of Rights in Realty in favor of Donata consisting of 5,000 square meters.[6]

In sum, the total area claimed by Donata sums up to 18,337 square meters encompassing the rice land and the coco land portion of TD. No. 08993.[7] On August 30, 1973, Donata mortgaged all of her share to Victoria for a consideration of P1,000.00[8] and the latter was placed in possession of the property mortgaged. Sometime in 1976, Donata tried to redeem from Victoria the property she mortgaged but the latter did not surrender possession thereof. Moreover, Victoria transferred in her name the tax declaration of the entire lot, canceling Tax Declaration No. 08993 and is now under Victoria's name under Tax Declaration No. 018574. Later on, when Donata died, her heirs, plaintiffs-appellees herein demanded for the possession of the land but the same proved futile.

Defendant-appellant Victoria contends that sometime in June 1968, during the lifetime of Victoriano and Demetria, the said spouses sold to her and her former husband, Patricio, the whole coconut land portion of the land covered under TD 08993 in their favor. Although the Deed of Absolute Sale was then unnotarized,[9] the said sale was later on confirmed by Demetria when she executed a notarized Deed of Confirmation of Previous Sale on August 5, 1973 in favor of Victoria.[10] Therefore, what remains in the estate of Victoriano is the riceland portion only.

So after the death of Victoriano, the riceland portion was partitioned by his children and his wife Demetria. After the partition, each heir took possession of their respective shares. Donata mortgaged her share to Victoria and the same was later on redeemed. On the other hand, Gloria sold her share to Victoria.

As it turns out later on, what really transpired was not a mortgage because after Donata repurchased the said property from Victoria, the latter remained and continue to remain to be in possession of the said property which only means that the transaction is really one of conditional sale.[11]

The RTC, in its Decision[12] dated May 28, 2007, ruled:

“WHEREFORE, the court makes the following rulings:

1. The coconut land portion of the land covered by Tax Declaration No. 08993 belongs to defendant Victoria Macabidang and the other heirs of Patricio Alandino;
2. The 7,541 square meters of the ricefield portion of the land covered in the sketch plan is owned in common by the plaintiffs. Since, this ricefield was already partitioned, the partition should be followed in determining the portion of the plaintiffs. On the other hand, the remaining 1,508 square meters portion is owned in common by the heirs of Patricio Alandino.
3. The 5,000 square meter portion of the land covered by T.D. No. 08993 denominated in the sketch plan as “Dowry of Donata A. Doinog” and covered by T.D. No. 05060 in the name of Donata A. Doinog is owned by the plaintiffs in common.
4. The defendant should pay the plaintiffs one million two hundred twenty seven thousand and six hundred pesos (P1,227,600.00) by way of actual damages and P500.00 as litigation expenses.
5. The defendant is ordered to pay plaintiffs P20,000.00 by way of exemplary damages;
6. The defendant is ordered to pay the costs of the suit; and
7. Defendant's counterclaims are dismissed for lack of legal basis.

SO ORDERED.”[13]

Thus, from the adverse decision, defendant-appellant comes to Us on appeal with the following assignment of errors, to wit:

“I. THE COURT A QUO ERRED IN FAILING TO DISMISS THE COMPLAINT ALTHOUGH THE

APPELLEES FAILED TO PROPERLY (IDENTIFY) THE PROPERTY THEY SEEK TO RECOVER AND ESTABLISH THEIR TITLE TO IT BASED ON THEIR OWN EVIDENCE PURSUANT TO ARTICLE 434 OF THE NEW CIVIL CODE;

II. THE COURT A QUO ERRED IN FAILING TO DISMISS THE COMPLAINT NOTWITHSTANDING THE FACT THAT THE HEREIN ACTION BASED ON A WRITTEN CONTRACT OF REAL ESTATE MORTGAGE WAS FILED MORE THAN TEN (10) YEARS FROM THE ACCRUAL OF THE CAUSE OF ACTION PURSUANT TO ARTICLE 1144(1) OF THE NEW CIVIL CODE AND, ALSO, BARRED BY ARTICLE 1142 OF THE SAME CODE;

III. THE COURT A QUO ERRED IN FAILING TO DECLARE THAT APPELLEES ARE BEREFT OF ANY LEGAL CAUSE OF ACTION CONSIDERING THAT THE COMPLAINT IS DEVOID OF ANY ADEQUATE ALLEGATIONS OF MATERIAL FACTS SHOWING THAT THE APPELLEES HAVE EXERTED EARNEST EFFORTS TOWARDS A COMPROMISE AS THEY AND APPELLANT ARE MEMBERS OF THE SAME FAMILY, PURSUANT TO ARTICLE 151 OF THE FAMILY CODE;

IV. THE COURT A QUO ERRED IN CONDEMNING THE APPELLANT TO PAY DAMAGES ALTHOUGH THE SAME IS NOT SUPPORTED BY EVIDENCE, BUT, SOLELY BASED ON THE TESTIMONIES OF APPELLEE MERLA D. JAROPOJOP WHICH ARE NOT MERELY UNCORROBORATED, BUT HEARSAY ALSO; AND

V. THE COURT A QUO HAS ERRED IN DISMISSING THE COUNTERCLAIMS OF THE APPELLANT ALTHOUGH MERITORIOUS AND TENABLE, UNREFUTED BY THE APPELLEES.”[14]

Our Ruling

Before going into the issues raised on appeal by defendant-appellant Victoria, We shall first sort out the claims of the contending parties. Admittedly, the specific portion of the claim of plaintiffs-appellees were not alleged in the complaint, so that the RTC in recognition thereof issued an Order dated October 17, 1989[15] appointing a commissioner to measure the area of the whole land and to plot the area possessed by Demetria, Patricio, Gloria and Donata. However, the Commissioner's Report[16] dated November 16, 1989, submitted to the RTC, did not fully achieve the purpose for which it was constituted for the following reasons:

“That in pursuance to the order of the court, the parties were asked by the undersigned whether they can pinpoint the portions allocated in oral partition to Demetria Julaton, Patricio Alandino, Gloria Alandino and Donata Alandino. They manifested that they have no knowledge of such oral partition, hence, this commissioner could not define the said portions of the land.

That what we did was to effect the measurement by metes and bounds of that property described in Paragraph 2 of the complaint covered by Tax Dec. No. 08993, in the name of Victoriano Alandino.

Upon request of the plaintiffs, the portion said to be the Dowry (bantag) of Doinog, Donata as well as, the ricefield and the coconut portion were determined x x x .”

So to start off, sometime in June 1968, an unnotarized Deed of Absolute Sale[17] was executed by the spouses Victoriano and Demetria Alandino, in favor of then spouses Patricio and Victoria Alandino, the pertinent portion of the agreement, reads:

“That for and in consideration of the sum of FIVE HUNDRED PESOS (P500.00) Philippine currency, inhand paid to us by the spouses PATRICIO Alandino and VICTORIA RONTOS, and a receipt of which is hereby acknowledged and confees (sic) to our entire satisfaction, We spouses Victoriano Alandino and Demetria Julaton, by these presents, do hereby SELL, CEDE, TRANSFER, and CONVEY unto said Spouses Patricio Alandino and Victoria Rontos their heirs, executors, successors, administrators and assignees (sic), forever in a

manner of Absolute Sale, that [th]is sale refers only to the portion of all coconut plantation, of above described parcel of agricultural land covered of (sic) the above mentioned Tax Declaration No. 08993 declared in the name of Victoriano Alandino and irrevocable and all the warranties provided for by laws.”

As will be unfolded later on, during the lifetime of the spouses Victoriano and Demetria, they have sold in favor of then spouses Patricio and Victoria the whole portion of their coconut land. Sale, by its very nature, is a consensual contract because it is perfected by mere consent. The essential elements of a contract of sale are the following:

- “a) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- b) Determinate subject matter; and
- c) Price certain in money or its equivalent.”[18]

Even if the document relied upon by Victoria is an unnotarized deed of sale, this does not invalidate the sale because of the nature of sale which is a consensual contract, perfected by mere consent and the execution of a notarized deed of sale is but a formal requisite in order to bind third persons. In fact the sale was not disputed by plaintiffs-appellees as declared by Merla D. Jaropojop, thus:

“Q: This document in Exhibit “B” is dated or signed on the 4th day of December at Calbayog City, you did not know Mrs. Witness that prior to this date this land was already conveyed to the defendant by your grandmother in favor of your mother, did I get you right?

A: I know about that, the portion that was sold was the coconut land.

Q: Do you know that the sale was a private document, is that right?

A: Yes.

Q: That was in 1968?

A: Yes.

Q: That precisely because the document was private your grandmother executed a Deed of Confirmation, that of previous sale, that a public document was only made on August 5, 1973 long before that document was made in favor of your mother?

A: What was only sold was the coconut portion to Victoria Macabidang.[19]

xxxxxx

Q: Mrs. Witness, what actually was sold by [the] spouses Victoriano Alandino and Demetria Alandino in favor to (sic) the defendant?

A: Coconut portion.

Q: You are very sure of that?

A: Yes/

Q: Why did you say awhile ago that they sold the entire land covered by Tax Declaration No. 08993 in favor of the defendant?

A: Because we saw from the office of the City Assessor that the present owner was already Victoria Macabidang while the present owner was Victoriano Alandino.

Q: What I am questioning Mrs. Witness, why is it that you stated that the entire portion of the land owned by Victoriano Alandino was sold to the defendant?

A: Not the whole land only the portion which is the coconut land.”[20]

And piecing together the testimony of Victoria, it becomes readily apparent that it is the whole portion of the coconut land that was sold to then spouses Victoria and Patricio, thus:

“Q: Now, is it not that the in that private instrument that you executed in 1968 before this deed of confirmation, states: the land that was sold to you by spouses Victoriano Alandino and Demetria Julaton is only a portion of that coconut land owned by your parents-in-law?

A: No, all was sold because that is a wide land.

Q: You mean to tell the Court that the entire land which is the coconut and the rice land was sold to you by your parents-in-law with a private instrument in 1968?

xxxxxx

Q: What about the rice land Mrs. Witness, was it also sold to you in 1968?

A: No, it was partitioned among the three children.

Q: It is clear now Mrs. Witness that in 1968 in that private instrument only the coconut land was sold to you and your husband?

A: Yes.[21]

xxxxxx

Q: You said that you bought a coconut land, how come that in your tax declaration you also included the rice land, the entire portion of the rice land formerly owned by Victoriano Alandino?

A: When the coconut land was sold to me, I presented the papers in possession to the Assessor, since I do not know anything about that, my only conscience is the coconut land was sold to us not the rice land.

Q: Since you said you are in good conscience, why did you not ask the assessor to correct the tax declaration issued to you?

A: That is keep in mind but I'm always busy.”[22]

Hence, what remains to be part of the estate of the late Victoriano is the riceland portion only. Upon further examination, it appears that a 5,000 square meter portion thereof was given as a dowry to Donata, this is in fact respected by Victoria when she was confronted about it, she stated:

“Interpreter: Witness indicating in Exh.”H” of the plaintiff and Exh.”1” of the defendant a portion thereof which is marked as Exh.”H-2” of the plaintiff(s) and Exh.”1-B” of the defendant denominated as said to be the dowry of Donata Doinog with an area of 5,000 square meters.

Q: Can you tell the Court if this portion denominated as Exh.”1-B” had been in the actual possession of the plaintiff, Donata Doinog?

A: No.

Q: Why?

A: She claims that that is her share.

Q: Precisely, who is in possession of the property?

A: Her cousin, Casiano, is the one farming on that land.

xxxxxx

Q: You are not claiming any interest over that portion? A: No, because it is theirs.”[23]

In reference to the survey made by the commissioner, it turns out that the land subject to litigation is the 9,050 square meter portion of the rice land.

Going now to the claim of the heirs of Donata, the Deed of Absolute Sale of One-Half Portion Only of Riceland executed by Demetria in favor of Donata dated December 4, 1973,24 Deed of Absolute Sale of One-Third of

One-Half Portion of Riceland Only executed by Gloria on the same date in favor of Donata,[25] and the Deed of Quitclaim and Renunciation (sic) of Rights in Realty dated April 6, 1979 jointly executed by Demetria and Gloria in favor of Donata.[26]

Before discussing on the validity of the said conveyances, We shall first examine the effect of the death of Victoriano Alandinog on April 17, 1973 on the property relations of his heirs: namely his surviving spouse Demetria and their children: Donata, Gloria and Patricio. Two [2] days later Patricio also died intestate.

After the death of Victoriano Alandinog on April 17, 1973, his heirs namely: his surviving spouse Demetria, and three [3] children Donata, Gloria and Patricio became co-owners of the property covered under TCT No. 08993. Two days later, Patricio died, and by virtue of representation under Article 970[27] of the Civil Code, his six [6] children became co-owners with Demetria, Donata and Gloria but only with respect to the share of Patricio.

Pursuant to Articles 888 and 996 of the Civil Code which reads:

“Art. 888. The legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother.

XXXXX

Art. 996. If a widow or widower and legitimate children or descendants are left, the surviving spouse has in the succession the same share as that of each of the children.”

Taking into account that the coconut portion of the land was validly conveyed by Victoriano and Demetria during the lifetime of the former, the same shall not form part of the estate of Victoriano. In addition, since the 5,000 portion of the riceland was given to Donata as dowry and this fact is admitted by Victoria who interposes no claim therefrom, again, the same shall not form part of the estate of Victoriano.

Hence, going now to the validity of the conveyances. Demetria as Victoriano's surviving spouse is entitled to the one-half portion of the 9,050 square meter riceland and she is likewise entitled to a share equivalent to the same share as each of the children as to the other half of the remaining estate of Victoriano. Since each heir is entitled to 1/4 portion of the other half of the 9,050 rice land or the 4,525 portion thereof.

However, since there was no partition yet among the heirs, as co-owners, one can only dispose of the share which he/she may be entitled to after the division of the estate and not the particular portion of the property co-owned in accordance with Article 493 of the Civil Code which states:

“Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.”

Consequently, the Deed of Sale dated December 4, 1973 in favor of Donata was valid because Demetria was entitled to ½ share of the riceland as the surviving spouse of Victoriano and the document evidencing said sale is clear that Demetria is conveying the entire ½ portion she is entitled from the estate of Victoriano in favor of Donata. The pertinent portion of the sale, reads:

“That the Vendor, for and in consideration of the sum of FIVE HUNDRED PESOS (P500.00) Philippine Currency to her in hand paid by the Vendee and receipt of which is hereby acknowledged and confessed to her entire satisfaction, by these presents; SELL, CEDE, TRANSFER and CONVEY in a manner absolute and irrevocable unto said Donata Doinog, her heirs and assigns the ONE-HALF (½) determinate portion towards the sout (sic) of the rice-land only, free from all liens and encumbrances and with all the warranties provided

under existing laws.”[28]

As heir to Victoriano, Donata is entitled to share in the other half of the estate of the former and that her share is the same as that of her children, thus, Demetria, Donata, Patricio and Gloria is entitled to $\frac{1}{4}$ each of the other half of Victoriano's estate.

Going now to the conveyance made by Gloria, she herself admitted to have sold $\frac{1}{2}$ of her share to Victoria while the other half to Donata, thus:

“Q: What did you do with your undivided share of the estate of your parents?

A: I sold my share.

Q: To whom did you sell your share?

A: I sold my one half share to Victoria Macabidang Alandino and other half to Donata Doinog.”[29]

There was a document executed by Gloria in favor of Donata denominated as Deed of Absolute Sale of One-Third of One-Half Portion of Riceland Only[30] however, considering that Gloria in her testimony declared that she is disposing all her shares to Donata and Victoria equally, then the document she executed did not really express her true intent and that taking into consideration that as the person who executed the said deed, she is the best person to refute the contents of the said document or to shed light on its true intent. As such, the $\frac{1}{4}$ share of Gloria shall be allocated to Donata equally.

With respect to the Deed of Quitclaim and Renunciation (sic) of Rights in Realty[31] executed by Demetria and Gloria in favor of Donata, the same shall be valid only if after the determination of both their shares from the estate of Victoriano that they could both alienate a total of 5,000 square meters taken from their combined shares but if it will not be covered by their shares, the alienation is valid only insofar as it is within the allotted share of both.

Patricio, and in his behalf, his heirs are entitled to receive $\frac{1}{4}$ portion of the riceland while Donata is likewise entitled to receive $\frac{1}{4}$ portion thereof.

Candidly however, this Court although recognizing that the parties herein, all descendants of the spouses Victoriano and Demetria Alandino have legitimes in the estate of the late spouses, there is an issue as to what particular portion of the property each heir is entitled to because of the lack of partition among them.

Taking that into consideration then, what is achieved by resolving this case is only what each heir is entitled as their legitime under the law. But for purposes of recovery of possession, the same could not yet be ascertained mainly because there was no identity of the subject land sought to be recovered. Under Article 434 of the Civil Code, it provides that in order to successfully maintain an action to recover the ownership of a real property, the person who claims a better right to it must prove two (2) things: first, the identity of the land claimed, and; second, his title thereto. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.[32]

In the instant case, although title to the said properties were proven by the plaintiffs-appellees when they presented the deeds of absolute sale, however, We find that they were not able to prove the identity of the land. It is settled that what really defines a piece of land is not the area mentioned in its description, but the boundaries therein laid down, as enclosing the land and indicating its limits.[33] Even if there was an allegation of partition but the same was not proven by the parties and it was not shown in evidence as to what area of the litigated property belongs to whom making it really difficult to pronounce with certainty what particular portion of land that they are entitled to.

In consequence, this action should be dismissed due to the above-described reasons. In connection thereto, the award for damages is at best premature considering that it could not be ascertained if the land possessed by defendant-appellant pertains to the share of plaintiffs-appellees.

However, for purposes of discussion, defendant-appellant Victoria in the instant appeal assailed the decision of the RTC for failing to declare that the complaint of plaintiffs-appellees states no cause of action as there was no allegation that they exerted earnest efforts to compromise considering that they are members of the same family, in violation of Article 151 of the Family Code, which reads:

“Art. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were, in fact, made, the case must be dismissed.”

The phrase “members of the family” must be construed in relation to Article 150 of the Family Code, to wit:

“Art. 150. Family relations include those:

- (1) Between husband and wife;
- (2) Between parents and children;
- (3) Among other ascendants and descendants; and (4) Among brothers and sisters, whether of the full or half-blood.”

Article 151 of the Family code must be construed strictly, it being an exception to the general rule. Hence, a sister-in-law or brother-in-law is not included in the enumeration.[34] Article 151 of the Family Code applies to cover when the suit is exclusively between or among family members.[35]

As pointed out by the Code Commission, it is difficult to imagine a sadder and more tragic spectacle than a litigation between members of the same family. It is necessary that every effort should be made toward a compromise before a litigation is allowed to breed hate and passion in the family and it is known that a lawsuit between close relatives generates deeper bitterness than between strangers.[36]

In the instant case, one of the plaintiffs-appellees is the husband of Donata, not a member of the latter's family and the defendant is Victoria Macabidang [formerly Victoria Doinog] is the sister-in-law of Donata making both really strangers. Hence, once a stranger becomes a party to a suit involving members of the same family, the law no longer makes it a condition precedent that earnest efforts be made towards a compromise before the action can prosper. While it is true that there is no said allegation in the complaint of plaintiffs-appellees regarding compromise, suffice it to say that since the Court has ruled that the requirement under Article 151 of the Family Code is applicable only in cases which are exclusively between or among members of the same family, it necessarily follows that the same may be invoked only by a party who is a member of that same family.[37]

With respect to the counterclaims of defendant-appellant, she alleged that the action against her is malicious thereby entitling her to damages.

We do not agree. We have discussed that plaintiffs-appellees are entitled to possess and own a portion of the property subject to litigation, only it could not be ascertained as to what particular portion they are entitled to. Moreover, moral damages are awarded if the following elements exist in the case: (1) an injury clearly sustained by the claimant; (2) a culpable act or omission factually established; (3) a wrongful act or omission by the defendant as the proximate cause of the injury sustained by the claimant; and (4) the award of damages predicated on any of the cases stated in Article 2219 of the Civil Code. In addition, the person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith. It is not enough that one merely suffered sleepless nights, mental anguish, and serious anxiety as the result of the actuations of the other party. Invariably such action must be shown to have been willfully done in bad faith or

with ill motive. Bad faith, under the law, does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud. It must be noted that the burden of proving bad faith rests on the one alleging it.[38] In application to the instant case, for failure to prove bad faith in her counterclaim the same must be dismissed.

WHEREFORE, in view of the foregoing, the Decision dated May 28, 2007, of the Regional Trial Court, 8[th] Judicial Region, Branch 31, Calbayog City, in Civil Case No. 348 for Ownership and Recovery of Property is hereby REVERSED and SET ASIDE.

Accordingly, the Complaint for Ownership and Recovery of Property is hereby DISMISSED.

SO ORDERED.

Hernando, J., Chairperson, and Azcarraga-Jacob, JJ., concur.

[1] Records, pp. 457-469, penned by the Honorable Judge Reynaldo B. Clemens

[2] Records, pp. 1-2

[3] Records, p. 61

[4] Records, p. 166

[5] Records, p. 167

[6] Records, p. 176

[7] Records, p. 452

[8] Records, p. 170

[9] Records, p. 431

[10] Records, p. 440

[11] Records, p. 12

[12] Records, pp. 457-469

[13] Records, pp. 468-469

[14] Rollo, pp. 54-55

[15] Records, p. 21

[16] Records, p. 23

[17] Records, p. 439

[18] Reyes v. Tuparan, G.R. No. 188064, June 1, 2011

[19] TSN, January 24, 1991, p. 13

[20] TSN, January 24, 1991, p. 15

[21] TSN, January 26, 1995, pp.16-18

[22] TSN, April 6, 1995, pp. 6-7

[23] TSN, November 10, 1994, pp. 13-14

[24] Records, p. 166

[25] Records, p. 167

[26] Records, p. 168

[27] Art. 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

[28] Records, p. 166

[29] TSN, March 3, 1993, p. 5

[30] Records, p. 167

[31] Records, p. 168

[32] VSD Realty & Development Corporation v. Uniwide Sales, Inc., et al., G.R. No. 170677, July 31, 2013

[33] Notarte, et al. v. Notarte, G.R. No. 180614, August 29, 2012

[34] Martinez, et al. v. Martinez, G.R. No. 162084, June 28, 2005

[35] Hiyas Savings and Loan Bank v. Acuña, et al., G.R. No. 154132, August 31, 2006

[36] Martinez, et al. v. Martinez, G.R. No. 162084, June 28, 2005

[37] Hiyas Savings and Loan Bank v. Acuña, et al., G.R. No. 154132, August 31, 2006

[38] Aliling v. Feliciano, G.R. No. 185829, April 25, 2012

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.