

**SPS. TRINIDAD S. ESTONINA AND PAULINO ESTONINA, PETITIONERS,
VS. COURT OF APPEALS, SPS. CELSO ATAYAN AND NILDA HICBAN
AND CONSUELO VDA. DE GARCIA, REMEDIOS, ELVIRA, OFELIA,
VIRG...**

G.R. No. 111547. January 27, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The instant controversy involves Lot C of the amended plan Psu-22983 Amd., situated in Barrio Santisima Cruz, Sta. Cruz, Laguna with an area of 273 square meters. The said parcel of land was covered by Transfer Certificate of Title No. T-19175 issued in the name of Santiago Garcia who died on October 2, 1967. Some six years after Santiago Garcia's death, or on March 10, 1973, the then Court of First Instance of Manila issued an order granting Trinidad Estonina's application for a writ of preliminary attachment in Civil Case No. 88430 entitled "Trinidad Estonina et al., plaintiffs-versus-Consuelo Garcia et al., defendants". Consequently, a notice of attachment was inscribed as a memorandum of encumbrance at the back of TCT No. T-19175 in favor of Trinidad Estonina covering all the rights, title, interest, and participation that Consuelo Garcia, the widow of Santiago Garcia, may have in and to the parcel of land covered by the said title.

As a result of a prior sale made by Santiago Garcia to Anselmo Balasoto of a sixty square meter portion of the said parcel of land, TCT. No. T-19175 was cancelled and in lieu thereof, TCT No. 77215 was issued on July 25, 1975 in the name of Santiago Garcia covering the remaining 213 square meters. TCT No. 77215 was in turn cancelled on June 27, 1977 because of another sale purportedly made during his lifetime by Santiago Garcia to his wife's niece, Ofelia Garcia, and TCT No. 82229 was issued in the name of the latter.

On August 14, 1977, the children of Santiago Garcia with his first wife, Adela Isoreta, namely Ofelia, Remedios, Elvira and Castor, all surnamed Garcia, executed a deed selling, transferring and conveying unto the spouses Celso Atayan and Nilda Hicban (hereinafter referred to as the spouses Atayan for brevity) their "title, rights, interest and participation which is four tenths (4/10) pro indiviso share" in the said parcel of land covered by TCT No. T-82229. About a year after, Santiago Garcia's second wife and widow, Consuelo Garcia and their children, Virgilio, Marilou and Lolita, all surnamed Garcia, followed suit and also sold to the spouses Atayan, their four-tenths (4/10) pro indiviso share in the same parcel of land. On February 22, 1980, Estrella R. Garcia, the widow of Santiago Garcia, Jr. (Santiago Garcia's son from his first marriage), and their children, Roderick, Elizabeth, Dorothy and Erlinda, likewise sold to the spouses Atayan, their one-tenth (1/10) pro indiviso share in the parcel of land covered by TCT No. T-82229.[1]

Subsequent to a favorable decision obtained by Trinidad Estonina in Civil Case No. 88430 against Consuelo Garcia, execution pending appeal was made on the parcel of land formerly covered by TCT No. T-19175 (now covered by TCT No. T-82229) on July 20, 1979. The said parcel of land was sold at a public auction where Trinidad Estonina was the highest bidder. Consuelo Garcia appealed the decision in Civil Case No. 88430 before

the then Intermediate Appellate Court which, however, ruled in favor of Trinidad Estonina. Thus, on February 29, 1984, the Intermediate Appellate Court rendered a decision declaring "owner's copy of Certificate of Title-No. T-82229 a NULLITY and/or CANCELLED". Upon the finality of the said decision, TCT No. T-82229 was cancelled by the Register of Deeds of Laguna and in lieu thereof, TCT No. T-99961 was issued in favor of "Trinidad Estonina married to Paulino Estonina". [2]

On July 25, 1985, the spouses Atayan filed a complaint for annulment of sheriff's sale and transfer certificate of title with damages before Branch 28 of the Regional Trial Court (RTC) of Santa Cruz, Laguna, impleading as defendants therein the spouses Trinidad and Paulino Estonina (hereinafter referred to as the spouses Estonina for brevity), Nicanor E. Silvano, Reynaldo G. Javier, Edmund R. Solidum, the Register of Deeds of Laguna, and the heirs of Santiago Garcia who sold to the spouses Atayan their, pro indiviso shares in the parcel of land covered by TCT No. T-82229. The complaint prayed:

"that the sale at public auction of the parcel of land covered by TCT No 77215 x x x and the Sheriff's final deed x x x be declared null and void; that the Register of Deeds be ordered to cancel TCT No. T-99961 in the name of Trinidad S. Estonina married to Paulino Estonina x x x; that the plaintiffs be declared owners of nine-tenths (9/10) pro indiviso interests, shares and participation in the parcel of land covered by TCT No. T-77215, x x x, and the Register of Deeds ordered to issue a new certificate of title corresponding thereto, and that the defendants Nicanor E. Silvano, Reynaldo G. Javier and Edmund R. Solidum be ordered to pay, jointly and severally, the plaintiff's spouses and (sic) amount of P30,000 for attorney's fees, P15,000 for litigation expenses incurred, P20,000 for moral damages and P15,000 for exemplary damages x x x." [3]

In their amended answer to the plaintiff's complaint, the spouses Estonina claimed that:

"the plaintiff's (spouses Atayan) had acted in bad faith in allegedly purchasing the parcel of land, they being aware that it was the subject of a lawful and valid attachment; that there was no valid extrajudicial settlement of agreement executed by the heirs of Santiago Garcia by which their rights could have been adjusted and settled before doing anything with his property; that the deeds of sale executed by his heirs were anomalous, fictitious and simulated intended to defeat the adverse judgment rendered by the Court against them and the writ of attachment issued pursuant thereto as they were derived from a falsified deed of sale purportedly executed by Santiago Garcia on June 23, 1967; that the property in question is presumed to be conjugal answerable for obligations and liabilities of the conjugal partnership incurred during the existence of the partnership; and that the plaintiffs were guilty of laches (pp. 90-99, rec.)" [4]

After trial, the RTC rendered a decision dismissing the complaint for lack of merit. It found, among others, that the property covered by TCT No. T-19175 and now covered by TCT No. T-82229, was acquired during the marriage of Santiago Garcia and Consuelo Garcia, and is presumed to be conjugal in nature. Upon the death of Santiago Garcia on October 2, 1967, his conjugal share of one-half (1/2) of the said parcel of land was transmitted to his heirs by intestate succession. By the law on intestate succession, his nine children, five by his first wife and four out of the subsequent marriage, and Consuelo Garcia, his second wife and widow, inherited the same at one-tenth (1/10) each pro indiviso. The remaining one-half (1/2) pertained to the conjugal share of Consuelo Garcia. Thus, inasmuch as Consuelo Garcia inherited one-tenth (1/10) of her husband's conjugal share in the said property and is the owner of one-half (1/2) thereof as her conjugal share, she owns a total of 55% (or 1/10 plus 1/2) of the said parcel of land. [5] Finding as such, the RTC held that what could be attached by the spouses Estonina and later levied on execution and sold at public auction was only Consuelo Garcia's rights and interests which is fifty five per cent (55%) of the property. Thus, the RTC ordered the Register of Deeds of the Province of Laguna, to cancel Transfer Certificate of Title No. T-99961 in the name of TRINIDAD S. ESTONINA, married to Paulino Estonina, and issue another one, also in her name, married to the same person, stating therein that said person is the owner of the property therein covered to the extent of 55% pro indiviso, and the remaining 45% belongs to the

heirs of Santiago Garcia pro indiviso. [6]

Both the spouses Atayan and the heirs of Santiago Garcia appealed to the herein public respondent Court of Appeals. After a thorough review of the evidence on record, the Court of Appeals concluded that contrary to the finding of the RTC, the parcel of land in question was not the conjugal property of Santiago and Consuelo Garcia, but was the former's exclusive property. It was therefore the entire property that formed part of Santiago Garcia's estate upon his death. When Santiago Garcia died, his nine children and Consuelo Garcia inherited the said property each to the extent of one-tenth (1/10) pro indiviso share. Hence, it was only Consuelo Garcia's one-tenth (1/10) pro indiviso share in the parcel of land in question which could be validly attached, levied and sold in execution to satisfy the judgment against her and in favor of Trinidad Estonina in Civil Case No. 88430. On August 12, 1993, the Court of Appeals rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, the judgment appealed from is REVERSED and SET ASIDE. Accordingly, Transfer Certificate of Title No. T-99961, covering Lot 2-C (LRC) Psd 223486, situated in Sta. Cruz, Laguna issued in the name of Trinidad S. Estonina, married to Paulino Estonina x x x, is hereby ordered cancelled and nullified and the Register of Deeds of Laguna ordered to issue another in lieu thereof covering the same parcel of land in the name of Trinidad S. Estonina, widow, one-tenth (1/10) pro indiviso share, and spouses Celso Atayan and Nilda Hicban, nine-tenths (9/10) pro indiviso share." [7]

Aggrieved, the spouses Estonina filed this petition and raised the following issues:

I.

The Court of Appeals, in declaring the property in question as exclusive property of Santiago Garcia, DISREGARDED the long established doctrine that the trial court's findings especially as to the credibility of the witnesses should be respected.

II.

The Court of Appeals, in issuing the questioned decision, solely centered on the nature of the property in question, and conveniently brushed aside the following legal issues raised on appeal (thereby leading to an erroneous judgment), to wit:

(a) That the plaintiffs-appellants (Sps. Atayan and now private respondents) have no cause of action and/or lack cause of action against Estoninas (now petitioners). Assuming, arguendo that they have, the same is now barred by laches. The same is true with the appellants Garcias (now also private respondents). Hence, the title of Estonina should have been declared valid.

(b) That the plaintiffs-appellants (Sps. Atayan and now private respondents) are not parties to Civil Case No. 88430 where the writ of attachment was issued and which resulted in the execution pending appeal. Hence, they cannot attack the validity of the execution in this proceedings especially so when judgment therein had already attained finality. Scallär

III.

Consequently, by virtue of the foregoing errors, the Court of Appeals erred in not granting herein petitioners' prayer that the trial court's findings be modified by upholding Estonina's title to the property under TCT No. T-99961, and affirming in all other respect the order of the trial court. [8]

The settled rule is that the factual findings, of the appellate court are deemed conclusive. [9] Thus, the jurisdiction of this Court in cases brought to it from the Court of Appeals is generally limited to the review and revision of errors of law allegedly committed by the appellate court. As such, this Court is generally not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below. [10] This is, however,

subject to several exceptions, one of which is when there is a conflict between the factual findings of the Court of Appeals and the trial court, as in this case, warranting a review by this Court of such factual findings. [11]

In concluding that the parcel of land in question was the conjugal property of Santiago and Consuelo Garcia, the trial court relied solely on the fact that when TCT No. T-19175 covering the said land was issued, Santiago Garcia was already married to Consuelo Garcia, thus giving rise to the presumption that the same was indeed conjugal. It found the testimony of Consuelo Garcia that the said property was inherited by Santiago Garcia from his deceased mother to be self-serving and completely disregarded the said testimony. And as regards the inscription at the back of the TCT No. T-19175 that:

"[t]he property described in this title is subject to the claims of the heirs of the deceased Eugenia Clemente, within two (2) years from January 27, 1961, in accordance with the provision of Section 4, Rule 74 of the Rules of Court", [12]

the trial court held that "there is no showing at all from said inscription that said property came from the parents of Santiago Garcia". [13]

On the other hand, the Court of Appeals in taking the stance that the said land was the exclusive property of Santiago Garcia, gave credence to the un rebutted testimony of Consuelo Garcia that the said parcel of land was inherited by Santiago Garcia from his deceased mother Eugenia Clemente and that it used to be part of a big tract of land which was divided among Santiago and his sisters.

The evidence on record as well as established jurisprudence on the matter lead us to concur with the finding of the Court of Appeals that the property involved in this dispute is indeed the exclusive property of the deceased Santiago Garcia. It has been repeatedly held by this Court that the presumption under Article 160 of the Civil Code that all property of the marriage belong to the conjugal partnership applies only when there is proof that the property was acquired during the marriage. Otherwise stated, proof of acquisition during the marriage is a condition sine qua non for the operation of the presumption in favor of the conjugal partnership. [14] In the case at bench, the petitioners have been unable to present any proof that the property in question was acquired during the marriage of Santiago and Consuelo. They anchor their claim solely on the fact that when the title over the land in question was issued, Santiago was already married to Consuelo as evidenced by the registration in the name of "Santiago Garcia married to Consuelo Gaza". This, according to the spouses Estonina, suffices to establish the conjugal nature of the property. The foregoing contention has no merit. In the case of *Jocson v. Court of Appeals* [15] we held that:

"The certificates of title, however, upon which petitioner rests his claim is insufficient. The fact that the properties were registered in the name of 'Emilio Jocson, married to Alejandra Poblete' is no proof that the properties were acquired during the spouses' coverture. Acquisition of title and registration thereof are two different acts. It is well settled that registration does not confer title but merely confirms one already existing x x x. It may be that the properties under dispute were acquired by Emilio Jocson when he was still a bachelor but were registered only after his marriage to Alejandra Poblete, which explains why he was described in the certificates of title as married to the latter.

"Contrary to petitioner's position, the certificates of title show, on their face, that the properties were exclusively Emilio Jocson's, the registered owner. This is so because the words 'married to' preceding 'Alejandra Poblete' are merely descriptive of the civil status of Emilio Jocson x x x. In other words, the import from the certificates of title is that Emilio Jocson is the owner of the properties, the same having been registered in his name alone, and that he is married to Alejandra Poblete." [16]

Being the exclusive property of Santiago Garcia, it was the entire parcel of land in question that formed part of his estate and which passed to his ten heirs by compulsory succession upon his death. And as correctly held by the

Court of Appeals, what could therefore be attached and sold at public auction in Civil Case No. 88430 was only the one-tenth (1/10) pro indiviso share of Consuelo Garcia in the said parcel of land. The sale at public auction of the disputed property in its entirety by the Sheriff in favor of Trinidad Estonina over and above the one-tenth (1/10) share of Consuelo Garcia is null and void, belonging as it does to the other heirs of Santiago Garcia and later to the spouses Atayan. Worth reiterating is the basic precept that the power of the court in the execution of judgments extends only over properties unquestionably belonging to the judgment debtor. The levy by the sheriff of a property by virtue of a writ of attachment may be considered as made under the authority of the court only when the property levied upon belongs to the defendant. [17] For, as the saying goes, one man's goods shall not be sold for another man's debts. [18]

The right of a third-party claimant to file an independent action to vindicate his claim of ownership over the properties seized is reserved by Section 17, Rule 39 of the Rules of Court:

"SEC. 17. Proceedings where property claimed by third person. -- If property levied on be claimed by any other person than the judgment debtor or his agent, and such person make an affidavit of his title thereto or his right to the possession thereof, stating the grounds of his right or title, and serve the same upon the officer making the levy, and a copy thereof upon the judgment creditor, the officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnify the officer against such claim by a bond in a sum not greater than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution.

"The officer is not liable for damages, for the taking or the keeping of the property, to any third-party claimant unless a claim is made by the latter and unless an action for damages is brought by him against the officer within one hundred twenty (120) days from the date of the filing of the bond. But nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property by any other proper action.

"x x x x x x x x" (Underscoring supplied.)

As stated in the case of *Sy v. Discaya*, [19] this "proper action" would have for its object the recovery of ownership or possession of the property seized by the sheriff, as well as damages resulting from the allegedly wrongful seizure and detention thereof despite the third party claim and it may be brought against the sheriff and such other parties as may be alleged to have colluded with him in the supposedly wrongful execution proceedings, such as the judgment creditor himself. Such "proper action", as above pointed out, is and should be an entirely separate and distinct action from that in which execution has issued, if instituted by a stranger to the latter suit. [20]

In the case at bench, the filing by the spouses Atayan of an independent action with the court other than the one which issued the writ of execution is proper as they were strangers to Civil Case No. 88430. Such an independent action cannot be considered as an encroachment upon the jurisdiction of a co-equal and coordinate court. [21] While it is true that property in custody of the law may not be interfered with, without the permission of the proper court, this rule is confined to cases where the property belongs to the defendant or one in which the defendant has proprietary interests. But when the Sheriff, acting beyond the bounds of his office seizes a stranger's property, the rule does not apply and interference with his custody is not interference with another court's custody. [22]

The foregoing puts to rest any and all questions raised regarding the propriety of the course of action taken by the spouses Atayan in vindication of their claim over the land in question. Anent the contention that the spouses Atayan are guilty of laches, suffice it to state that this residual argument deserves scant consideration. Being strangers to Civil Case No. 88430 where the writ of execution over the land in question was issued, they cannot be

faulted for filing the "proper action" only in 1985 or six (6) years after the levy on execution. Besides, it was only in 1984 that the Court of Appeals rendered a decision finally cancelling the title of their predecessors-in-interest and issuing another one in favor of Trinidad Estonina. The action filed by the spouses Atayan seeking the annulment of the sheriff's sale and the transfer certificate of title with damages immediately thereafter or on July 25, 1985 cannot be considered as undue delay nor does it imply a lack of interest to enforce their claim over the disputed property.

WHEREFORE, the petition is DENIED and the assailed decision of the Court of Appeals is affirmed in toto.
SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] DECISION in CA-G.R. CV No. 28276, pp. 1-3; Rollo. pp. 24-26.

[2] PETITION in G.R. No. 111547. p. 4; Rollo. p. 10.

[3] Supra, p. 5; Rollo p. 28.

[4] Ibid.

[5] Supra, p. 11; Rollo, p. 34.

[6] Supra, p. 6; Rollo, p. 29.

[7] Ibid, p. 15; Rollo, p. 38.

[8] Supra, pp. 8-9; Rollo, pp. 14-15.

[9] Industrial Textile Manufacturing Company of the Philippines vs. LPJ Enterprises Inc., 217 SCRA 322. 325 [1993]; Guinsatao vs. Court of Appeals, 218 SCRA 708 [1993]; Bustamante vs. Court of Appeals 193 SCRA 603 [1991]; Radiowealth Finance Company vs. Palileo, 197 SCRA 245 [1991].

[10] Gaw vs. Intermediate Appellate Court, 220 SCRA. 405, 413 [1993].

[11] Ibid.

[12] Supra, 10; Rollo, p. 33.

[13]]Ibid.

[14] Jocson vs. Court of Appeals, 170 SCRA 333 344 [1989]; Ong vs. Court of Appeals, 204 SCRA 297, 302 [1989]; Cobb-Perez vs. Hon. Gregorio Lantin 23 SCRA 637 [1968] Maramba vs. Lozano et. al., 20 SCRA 474 [1967].

[15] Ibid.

[16] Ibid., p. 345.

[17] Uy, Jr. vs. Court of Appeals, 191 SCRA 275, 281 [1990]; Consolidated Bank and Trust Corp. vs. Court of Appeals, 193 SCRA 158 [1991]; Ong vs. Tating, 149 SCRA 265 [1987]; Traders Royal Bank vs. IAC, 133 SCRA 141 [1984].

[18] Ong vs. Tating, ibid. p. 275.

[19]181 SCRA 378 [1990].

[20] Ibid., p. 383.

[21]Ibid., p. 384; Uy, Jr. vs. Court of Appeals, supra. p. 281.

[22]Uy, Jr. vs. Court of Appeals ibid.

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