

MARIA ELENA RODRIGUEZ PEDROSA, PETITIONER, VS. THE HON. COURT OF APPEALS, JOSE, CARMEN, MERCEDES & RAMON, ALL SURNAMED RODRIGUEZ, ROSALINA RODRIGUEZ, CHAN LUNG FAI, MATEO TAN TE...

G.R. No. 118680. March 05, 2001

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-118680/>

QUISUMBING, J.:

This petition assails the decision of the Court of Appeals dated May 23, 1994 which affirmed the judgment of the Regional Trial Court, Branch 15, of Ozamiz City in Civil Case No. OZ-1397.

The facts of this case are as follows:

On April 8, 1946, the spouses Miguel Rodriguez and Rosalina J. de Rodriguez initiated proceedings before the CFI of Ozamiz City for the legal adoption of herein petitioner, Maria Elena Rodriguez Pedrosa. On August 1, 1946, the CFI granted the petition and declared petitioner Pedrosa the adopted child of Miguel and Rosalina.

On April 29, 1972, Miguel died intestate. Thereafter, petitioner and Rosalina entered into an extrajudicial settlement of Miguel's estate, adjudicating between themselves in equal proportion the estate of Miguel.

On November 21, 1972, private respondents filed an action to annul the adoption of petitioner before the CFI of Ozamiz City, with petitioner and herein respondent Rosalina as defendants docketed as OZ 349.

On August 28, 1974, the CFI denied the petition and upheld the validity of the adoption. Thereafter, the private respondents appealed said decision to the Court of Appeals.

On March 11, 1983, while said appeal was pending, the Rodriguezes entered into an extrajudicial settlement with respondent Rosalina for the partition of the estate of Miguel and of another sister, Pilar. Rosalina acted as the representative of the heirs of Miguel Rodriguez. Pilar had no heirs except his brothers and sisters.

The Deed of Extrajudicial Settlement and Partition covered fourteen parcels of land covering a total area of 224,883 square meters. These properties were divided among Jose, Carmen, Mercedes, Ramon and the heirs of Miguel, represented solely by Rosalina. The heirs of Miguel were given 226 square meters of parcel 2, and 9,567 square meters and 24,457 square meters of parcels 7 and 9, respectively.[1] The total land area allocated to the heirs of Miguel was 34,250 square meters.

Armed with the Deed of Extrajudicial Settlement and Partition, respondents Rodriguezes were able to secure new Transfer Certificates of Title (TCTs) and were able to transfer some parcels to the other respondents herein.[2]

Lots 504-A-6, 504-B-3 and 504-C-4, portions of Parcel 3, designated as Lot 504, were transferred to respondents Chuan Lung Fai,[3] but not included in the Deed of Settlement and Partition, were transferred to respondent Lilian Express, Inc. and are now registered under TCT No. T-11337. Parcel 6, Lot 560, was subdivided among

Ramon, Jose, Carmen and Mercedes and was designated as Lots 560-A, 560-B, 560-C, 560-D and 560-E. Lot 560-A covering 500 square meters was transferred to respondent Victorino Detall[4] and was subsequently transferred to Jerome Deiparine who registered it under his name under TCT No. T-10706. Lot 560-B with 500 square meters was transferred to respondent Petronilo Detalla[5] and was later transferred to respondent Hubert Chiu Yulo who registered it under his name under TCT No. T-11305. Lot 560-C was transferred and registered under the name of respondent Paterio Lao with TCT No. T-10206. Lot 560-D was sold to and subsequently registered in the name of Lorensita M. Padilla under TCT No. T-10207. The remaining portion, Lot 560-E consisting of 43,608 square meters was bought by respondent Immaculate Concepcion College and was registered in its name under TCT No. T-10208.[6]

On June 19, 1986, the parties in the appeal which sought to annul the adoption of petitioner Pedrosa filed a joint Motion to Dismiss. On June 25, 1986, the Court of Appeals dismissed the appeal but upheld the validity of the adoption of petitioner.

Thereafter, petitioner sent her daughter, Loreto Jocelyn, to claim their share of the properties from the Rodriguezes. The latter refused saying that Maria Elena and Loreto were not heirs since they were not their blood relatives.

Petitioner, then, filed a complaint to annul the 1983 partition. The said complaint was filed on January 28, 1987. Said complaint was later amended on March 25, 1987 to include the allegation "that earnest efforts toward a compromise were made between the plaintiffs and the defendants, but the same failed." [7]

The Regional Trial Court dismissed the complaint.

Petitioner appealed to the Court of Appeals. The appellate court affirmed the decision of the trial court. Its ruling was premised on the following grounds:[8]

1)

that the participation of Rosalina has already estopped her from questioning the validity of the partition, and since she is already estopped, it naturally follows that Maria Elena, her successor-in-interest, is likewise estopped, applying Article 1439 of the Civil Code;

2)

that the appeal of Maria Elena and her claim that the partition is null and void is weakened by her inconsistent claim that the partition would have been alright had she been given a more equitable share;

3)

the action is essentially an action for rescission and had been filed late considering that it was filed beyond the 4 year period provided for in Article 1100 of the Civil Code;[9]

4)

that fraud and/or bad faith was never established.

Petitioner filed a Motion for Reconsideration, which was denied by the Court of Appeals in a Resolution dated December 20, 1994.[10]

Hence, this petition wherein the petitioner asserts that the following errors were allegedly committed by the Court of Appeals in -

- FINDING THAT THE EXTRAJUDICIAL SETTLEMENT AND PARTITION ENTERED INTO BY

DEFENDANT JUREDINI AND DEFENDANTS-APPELLANTS RODRIGUEZES WAS VALID AND BINDING UPON THE PLAINTIFF-APPELLANT WHO DID NOT PARTICIPATE IN SAID TRANSACTION

- CONCLUDING THAT THE CLAIM OF PLAINTIFF-APPELLANT HAVE ALREADY PRESCRIBED TWO (2) YEARS AFTER PUBLICATION OF THE EXTRAJUDICIAL SETTLEMENT AND PARTITION IN THE NEWSPAPER OF GENERAL CIRCULATION

- CONCLUDING THAT THE CLAIM OF PLAINTIFF-APPELLANT IS BARRED OR ESTOPPED IN FILING THIS CASE (sic) IN VIEW OF THE DISMISSAL OF THE APPEAL IN CIVIL CASE NO. OZ 349 INTERPOSED BY HEREIN DEFENDANTS-APPELLEES WHO WERE THEN PLAINTIFFS-APPELLANTS IN AC[C]-G.R. NO. SP-00208

- SUSTAINING THE DEFENDANT-APPELLEES' CLAIM THAT AS THEY HAVE NOT AS YET RECOGNIZED PLAINTIFF-APPELLANT AS AN ADOPTED DAUGHTER OF MIGUEL RODRIGUEZ IT WAS NOT NECESSARY FOR THEM TO HAVE HER PARTICIPATE IN THE EXTRAJUDICIAL SETTLEMENT, EXHIBITS "S" AND "I"

- CONCLUDING THAT THE PLAINTIFF-APPELLANT HAD NOT CONCLUSIVELY SHOWN THAT MIGUEL RODRIGUEZ WAS A CO-OWNER OF THE LANDS SOLD AND HENCE IT FOLLOWS THAT SHE HAS NO RIGHT OF REDEMPTION OF THOSE LANDS

- FINDING THAT PORTION OF LOTS NOS. 504 AND 560 SOLD TO THE OTHER DEFENDANTS-APPELLEES WERE CLEAN AND FREE FROM ENCUMBRANCES OR ANY FLAWS HENCE WERE VALID

- FINDING THAT THE PLAINTIFF-APPELLANT NEVER APPEARED IN COURT TO TESTIFY OR REBUT THE ASSERTIONS OF THE DEFENDANTS-APPELLANTS THAT THERE WAS A VALID PARTITION

- AWARDING PLAINTIFF-APPELLANT DAMAGES FOR THE INCOME OF HER SHARE IN THE PROPERTIES IN QUESTION[11]

In sum, the issues to be resolved in our view are (1) whether or not the complaint for annulment of the "Deed of Extrajudicial Settlement and Partition" had already prescribed; (2) whether or not said deed is valid; and (3) whether or not the petitioner is entitled to recover the lots which had already been transferred to the respondent buyers.

Petitioner argues that the complaint for annulment of the extrajudicial partition has not yet prescribed since the prescriptive period which should be applied is four years following the case of *Beltran vs. Ayson*, 4 SCRA 69 (1962). She also avers that Sec. 4, Rule 74 which provides for a two-year prescriptive period needs two requirements. One, the party assailing the partition must have been given notice, and two, the party assailing the partition must have participated therein. Petitioner insists these requirements are not present in her case,[12] since she did not participate in the "Deed of Extrajudicial Settlement and Partition." She cites *Villaluz vs. Neme*, 7 SCRA 27, 30 (1963), where we held that a deed of extrajudicial partition executed without including some of the heirs, who had no knowledge and consent to the same, is fraudulent. She asserts that she is an adoptive daughter and thus an heir of Miguel.[13]

Petitioner also contends that the respondent buyers were buyers in bad faith since they failed to exercise the necessary due diligence required before purchasing the lots in question.[14] In the alternative, petitioner wants to redeem the said lots as a co-owner of respondent Rodriguezes under the provisions of Article 1620 of the New Civil Code.[15]

Lastly, petitioner asserts that she will suffer lesion if the partition would be allowed. She asks for the rescission of the said partitioning under Articles 165-175 of the Civil Code.[16]

Respondents, in response, claim that the action of petitioner had already prescribed. In addition, they argue that petitioner, Maria Elena, and Rosalina already have their shares in the estate of Miguel Rodriguez reflected in the compromise agreement they entered into with the respondent Rodriguezes in AC- G.R. SP 00208. Finally, respondents aver that the non-participation of Maria Elena in the extrajudicial partition was understandable since her status as an adopted child was then under litigation. In any case, they assert that the shares of Miguel's heirs were adequately protected in the said partition.[17]

Section 4, Rule 74[18] provides for a two year prescriptive period (1) to persons who have participated or taken part or had notice of the extrajudicial partition, and in addition (2) when the provisions of Section 1[19] of Rule 74 have been strictly complied with, i.e., that all the persons or heirs of the decedent have taken part in the extrajudicial settlement or are represented by themselves or through guardians.[20]

Petitioner, as the records confirm, did not participate in the extrajudicial partition. Patently then, the two-year prescriptive period is not applicable in her case.

The applicable prescriptive period here is four (4) years as provided in *Gerona vs. De Guzman*, 11 SCRA 153 (1964), which held that:

[The action to annul] a deed of "extrajudicial settlement" upon the ground of fraud...may be filed within four years from the discovery of the fraud. Such discovery is deemed to have taken place when said instrument was filed with the Register of Deeds and new certificates of title were issued in the name of respondents exclusively.[21]

Considering that the complaint of the petitioner was filed on January 28, 1987, or three years and ten months after the questioned extrajudicial settlement dated March 11, 1983, was executed, we hold that her action against the respondents on the basis of fraud has not yet prescribed.

Section 1 of Rule 74 of the Rules of Court is the applicable rule on publication of extrajudicial settlement. It states:

The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.[22]

Under said provision, without the participation of all persons involved in the proceedings, the extrajudicial settlement cannot be binding on said persons. The rule contemplates a notice which must be sent out or issued before the Deed of Settlement and/or Partition is agreed upon, i.e., a notice calling all interested parties to participate in the said deed of extrajudicial settlement and partition, not after, which was when publication was done in the instant case. Following Rule 74 and the ruling in *Beltran vs. Ayson*, since Maria Elena did not participate in the said partition, the settlement is not binding on her.

The provision of Section 4, Rule 74 will also not apply when the deed of extrajudicial partition is sought to be annulled on the ground of fraud. A deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of and consent to the same, is fraudulent and vicious.[23] Maria Elena is an heir of Miguel together with her adopting mother, Rosalina. Being the lone descendant of Miguel, she excludes the collateral relatives of Miguel from participating in his estate, following the provisions of Article 1003 of the Civil Code.[24] The private respondent Rodriguezes cannot claim that they were not aware of Maria Elena's adoption since they even filed an action to annul the decree of adoption. Neither can they claim that their actions were valid since the

adoption of Maria Elena was still being questioned at the time they executed the deed of partition. The complaint seeking to annul the adoption was filed only twenty six (26) years after the decree of adoption, patently a much delayed response to prevent Maria Elena from inheriting from her adoptive parents. The decree of adoption was valid and existing. With this factual setting, it is patent that private respondents executed the deed of partition in bad faith with intent to defraud Maria Elena.

In the case of *Segura vs. Segura*, the Court held:

This section [referring to section 4, Rule 74] provides in gist that a person who has been deprived of his lawful participation in the estate of the decedent, whether as heir or as creditor, must assert his claim within two years after the extrajudicial or summary settlement of such estate under Sections 1 and 2 respectively of the same Rule 74. Thereafter, he will be precluded from doing so as the right will have prescribed.

It is clear that Section 1 of Rule 74 does not apply to the partition in question which was null and void as far as the plaintiffs were concerned. The rule covers only valid partitions. The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule, "no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof." As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to hold that their right to challenge the partition had prescribed after two years from its execution in 1941.[25]

To say that Maria Elena was represented by Rosalina in the partitioning is imprecise. Maria Elena, the adopted child, was no longer a minor at the time Miguel died. Rosalina, only represented her own interests and not those of Maria Elena. Since Miguel predeceased Pilar, a sister, his estate automatically vested to his child and widow, in equal shares. Respondent Rodriguezes' interests did not include Miguel's estate but only Pilar's estate.

Could petitioner still redeem the properties from buyers? Given the circumstances in this case, we are constrained to hold that this is not the proper forum to decide this issue. The properties sought to be recovered by the petitioner are now all registered under the name of third parties. Well settled is the doctrine that a Torrens Title cannot be collaterally attacked. The validity of the title can only be raised in an action expressly instituted for such purpose.[26]

Petitioner asks for the award of damages. No receipts, agreements or any other documentary evidence was presented to justify such claim for damages. Actual damages, to be recoverable, must be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages.[27] The same is true for moral damages. These cannot be awarded in the absence of any factual basis.[28] The unsubstantiated testimony of Loreto Jocelyn Pedrosa is hearsay and has no probative value. It is settled in jurisprudence that damages may not be awarded on the basis of hearsay evidence.[29] Nonetheless, the failure of the petitioner to substantiate her claims for damages does not mean that she will be totally deprived of any damages. Under the law, nominal damages are awarded, so that a plaintiff's right, which has been invaded or violated by defendants may be vindicated and recognized.[30]

Considering that (1) technically, petitioner sustained injury but which, unfortunately, was not adequately and properly proved, (2) petitioner was unlawfully deprived of her legal participation in the partition of the estate of Miguel, her adoptive father, (3) respondents had transferred portions of the properties involved to third parties, and (4) this case has dragged on for more than a decade, we find it reasonable to grant in petitioner's favor nominal damages in recognition of the existence of a technical injury.[31] The amount to be awarded as such damages should at least commensurate to the injury sustained by the petitioner considering the concept and purpose of said damages.[32] Such award is given in view of the peculiar circumstances cited and the special reasons extant in this case.[33] Thus, the grant of ONE HUNDRED THOUSAND (P100,000.00) PESOS to

petitioner as damages is proper in view of the technical injury she has suffered.

WHEREFORE, the petition is GRANTED. The assailed decision of the Court of Appeals is hereby REVERSED and SET ASIDE. The "Deed of Extrajudicial Settlement and Partition" executed by private respondents on March 11, 1983 is declared invalid. The amount of P100,000.00 is hereby awarded to petitioner as damages to be paid by private respondents, who are also ordered to pay the costs.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Exhibit "S," Plaintiffs Folder of Exhibits, pp. 87-91

[2] CA Records, pp. 5-7.

[3] Spelled as "Chan Lung Fai" in petition.³ Mateo Tan Te, Te Eng Suy, Loreta Te and Tio Tuan. These lots are now covered by TCT No. T-11358. Lots 504-A-5 and 504-B-1, included in Parcel

[4] Referred to as "Victorio Detalia in petition.

[5] Referred to as Petronilo Detalia" in petition.

[6] Ibid.

[7] Rollo, p. 31.

[8] CA Records, pp. 149-151

[9] The Court of Appeals mistakenly considered March 25, 1987 as the date when complaint was filed when in fact, as the records will show, it was filed on January 28, 1987.⁹

[10] In the said Resolution, the Court of Appeals retracted on its previous ruling that the complaint was filed on March 25, 1987 and corrected itself by stating that the complaint was indeed filed on January 28, 1987. However, it still held that the action had already prescribed since the prescription period is not four (4) years (as it previously stated), but rather, it was two (2) years, as provided for in Section 4 of Rule 74.

[11] Rollo, pp. 36-38.

[12] Id. at 40-43.

[13] Id. at 44-51.

[14] Id. at 51-53.

[15] Art. 1620. A co-owner of a thing may exercise the right of redemption in case the shares of all the other co-owners or any of them, are sold to a third person. If the price of the alienation is grossly excessive, the redemptioner shall pay only the reasonable one.

Should two or more co-owners desire to exercise the right of redemption, they may only do so in proportion to the shares they may respectively have in the thing owned in common.

[16] Articles 1098-1100, NCC.

[17] Rollo, pp. 162-163.

[18] Sec. 4. Liability of distributees and estate - If it shall appear at any time within two (2) years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. And if within the same time of two (2) years, it shall appear that there are debts outstanding against the estate which have not been paid, or that an heir or other person has been unduly deprived of his lawful participation payable in money, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of such debts or lawful participation and order how much and in what manner each distributee shall contribute in the payment thereof, and may issue execution, if circumstances require, against the bond provided in the preceding section or against the real estate belonging to the deceased, or both. Such bond and such real estate shall remain charged with a liability to creditors, heirs, or other persons for the full period of two (2) years after such distribution, notwithstanding any transfers of real estate that may have been made.

[19] Now sections 1 and 2.

[20] Beltran vs. Ayson, 4 SCRA 69, 72 (1962), citing Sampillo, et. al vs. Court of Appeals, et. al., 55 Off. Gaz., July 27, 1959, pp. 5775-5777, citing McMicking vs. Sy Conbieng, 21 Phil. 211 (1912), underline supplied.

[21] Citing Mauricio vs. Villanueva, L-11072, September 24, 1959; underline for emphasis supplied.

[22] Section 1, Rule 74, Rules of Court, underline supplied.

[23] Villaluz vs. Neme, 7 SCRA 27, 30 (1963).

[24] Article 1003, in relation to Article 979, 2[nd] par.; Also, see annotations of Jurado in "Comments and Jurisprudence on Succession", 1991 8[th] ed., p. 444.

[25] Segura vs. Segura, 165 SCRA 368, 373 (1988).

[26] Halili vs. Court of Industrial Relations, 257 SCRA 174, 184 (1996).

[27] Marina Properties Corporation vs. Court of Appeals, 294 SCRA 273, 286 (1998).

[28] Brent Hospital, Inc. vs. NLRC, 292 SCRA 304, 311 (1998).

[29] PNOC Shipping and Transport Corporation vs. Court of Appeals, 297 SCRA 402, 425 (1998).

[30] Lufthansa German Airlines vs. Court of Appeals, 243 SCRA 600, 616 (1995).

[31] PNOC Shipping and Transport Corp. vs. CA, supra, note 28 at 426, citing, Robes-Francisco Realty and Development Corp. vs. CFI of Rizal (Br.34), 86 SCRA 59, 65 (1978).

[32] China Air Lines, Ltd. vs. CA, 185 SCRA 449, 460 (1990).

[33] PNOC Shipping and Transport Corp. vs. CA, supra, note 30.

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.