

**SPOUSES NENA ARRIOLA AND FRANCISCO ADOLFO, GENEROSA
CAWIT-LUMAYNO, MANUEL LUMAYNO, TERESITA
LUMAYNO-FLORES, ZENAIDA LUMAYNO-JACILDO, MADELINE
LUMAYNO-PRIEST, MA.VICTORIA LUMAYNO...**

G.R. No. 123490. August 09, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal from the decision of the Court of Appeals, the dispositive portion of which reads:

“WHEREFORE, the decision appealed from is hereby REVERSED and set aside and another one rendered declaring:

“1. plaintiffs-appellants as absolute owners of one-half of Lot. No. 1478-B of Escalante Cadastre, less the portions owned by Ugtongan Elementary School and Ricardo Mahilum;

“2. Ricardo Mahilum as the owner of that portion described in TCT No. 60561, which was bought by his predecessor-in-interest Fausto Moncada from Simeon Mahilum;

“3. the government as the owner of that portion sold by Simeon to Ugtongan Elementary School;

“4. the reconstituted title OCT No. RO-1076 in the name of Eusebio Mahilum and all the titles issued resulting from its partition as null and void.

“The heirs of Maximo Mahilum having failed to assert their right over the one-half portion of the whole property, the partition and subsequent transfer of ownership as to this portion stays.

“SO ORDERED.”[1]

The facts, as found by the Court of Appeals, are as follows:

“The subject of the case at bench is a parcel of land known as Lot No. 1478-B of the Escalante Cadastre, located at Ugtongan, Escalante, Negros Occidental, containing an area of 11.1278 hectares.

“Lot No. 1478-B was originally owned by the spouses Eusebio Mahilum and Dionisia Blase. On February 13, 1912, Eusebio and Dionisia sold the land to their son Simeon Mahilum, who took possession thereof and enjoyed the fruits of the land in concept of owner, openly, publicly and uninterruptedly except in 1972. He had the land declared in his name for taxation purposes.

“On March 10, 1931, the Court of First Instance of Negros Occidental acting as a cadastral court rendered judgment adjudicating the land to the spouses Simeon Mahilum and Adriana Pabalate.

“In 1932, Simeon Mahilum sold one-half (1/2) of the property to his brother Maximo.

“Sometime thereafter, Simeon Mahilum sold 500 square meters of the property to Fausto Moncada and another

500 sq. m., more or less to Ugtongan Elementary School.

"On July 2, 1969, at the instance of his sister Rosario Mahilum, Simeon, who is an illiterate, affixed his thumbmark on a document denominated as an Extra-Judicial Partition of Inherited Real Estates[2] on the misrepresentation of Rosario Faustina that Eusebio Mahilum's heirs would partition three other lots and did not include Simeon's Lot 1478-B.

"On July 11, 1970, an inexistent title to the land in the names of Sps. Eusebio Mahilum and Dionisia Blase was reconstituted on the strength of the technical description of the land and an affidavit executed by Rosario Mahilum, and OCT No. RO-1076 was issued.

"The defendants-heirs of Eusebio Mahilum then partitioned the property among themselves to the exclusion of Simeon Mahilum and on October 26, 1970, the following titles[3] were issued:

"Lot 1478-B-1 TCT#60557 – Joaquin Mahilum
B-3 60559 – Rosario Mahilum
B-4 60560 – Rosario Mahilum having bought Quirino Mahilum's share
B-5 60561 – Fausto Moncada
B-6 60562 – Eusebio Mahilum and Dionisia Blase
B-7 60563 – Teresita Lumayno having bought Albina Mahilum's share
B-8 60564 – Felipe Mahilum
B-9 60565 – Heirs of Juan Mahilum
B-10 60566 – Santiago Mahilum $\frac{1}{2}$ and Maximo Mahilum $\frac{1}{2}$

"Later, TCT NO. T-60564 was cancelled and TCT No. T-69709 was issued to defendant spouses Nena Arriola Adolfo and Francisco Adolfo who bought Felipe Mahilum's share; likewise TCT No. T-60561 in the name of Fausto Moncada was cancelled when he sold his lot to spouses Ricardo Mahilum and Elena Bacuado.

"Generosa Cawit Lumayno and Braulio Lumayno later purchased Rosario Mahilum's share and were substituted as party defendants.

"In 1972 Simeon Mahilum discovered that the inexistent title was reconstituted and the property partitioned.

"On March 13, 1973, Simeon Mahilum and the heirs of Maximo Mahilum filed a complaint for annulment of title with the then Court of First Instance of Negros Occidental, alleging that the reconstituted OCT No. RO-1076 was null and void since there was no prior title to be reconstituted in the name of Eusebio Mahilum and Dionisia Blase;[4] that Simeon Mahilum was the rightful owner of Lot 1478-B, the same having been adjudicated to him by the CFI at the cadastral proceedings in 1931; that Simeon's thumbmarks on the Extra-Judicial Partition were obtained thru fraudulent misrepresentations. Consequently, all titles that flowed therefrom are null and void.

"In their answer, defendants contend that the property in question which was owned by Eusebio Mahilum and Dionisia Blase never truly conveyed to Simeon Mahilum. When cadastral proceedings in Escalante, Negros Occidental, went underway, Eusebio Mahilum entrusted to his eldest son, Simeon the task of handling all matters pertaining to the titling of the land inasmuch as he was too old to withstand the rigors attendant to the case, traveling to Bacolod to find a lawyer and to attend the hearings and take care of the other pertinent aspects of the registration proceedings. They assert their right of dominion over their respective portions of the property by reason of inheritance from their deceased parents/grandparents, Eusebio and Dionisia Mahilum.

"For their part, the other defendants profess to be purchasers in good faith not aware of any flaw in their predecessors' titles.

"A second amended complaint was filed by plaintiffs minus the heirs of Maximo Mahilum as "they are no longer interested because they have no more father and they have no money to spend for the case." [5]

"After trial, the lower court rendered the assailed decision, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, the Court hereby:

"1. Orders the dismissal of this case;

"2. Orders the plaintiffs to pay jointly and severally defendants the sum of P5,000.00 as attorney's fees;

"3. Orders respondents Francisco Mahilum and Rosela Mahilum to forthwith surrender possession of the lands owned by defendants Generosa Lumayno and Teresita Lumayno;

"4. Finds the respondent spouses Francisco Mahilum and Rosela Mahilum guilty of contempt of court and sentences them to an imprisonment of TEN (10) days;

" 5. Orders the continued confinement of respondents beyond ten (10) days should they still fail or refuse to restore said defendants-petitioners to the possession of their lands.

" SO ORDERED."[6]

On May 17, 1991, respondents appealed to the Court of Appeals.[7]

After the parties had submitted their respective briefs, on September 14, 1995, the Court of Appeals promulgated its decision reversing the appealed decision, the decretal part of which is quoted in the opening paragraph of this decision.[8]

Hence, this appeal.[9]

The issues raised are (1) whether Simeon Mahilum acquired the subject property by purchase from his parents, or by inheritance, and (2) whether the titles issued as a result of partition of subject lot were void.

The issues raised are factual. We may not review the appellate court's findings of fact in an appeal via certiorari.[10] The findings of fact of the Court of Appeals supported by substantial evidence are conclusive and binding on the parties and are not reviewable by this Court,[11] unless the case falls under any of the exceptions to the rule,[12] such as diverse factual findings of the lower courts[13] or the findings are entirely grounded on speculations.[14] Petitioner failed to prove that the case falls within the exceptions.[15]

Thus, the question of whether the subject parcel of land, Lot 1478-B was sold by the original owners, Eusebio Mahilum and Dionisia Blase to their son Simeon is a factual issue. Nonetheless, the cadastral court in its decision rendered in 1931 declared the land to be owned by Simeon. The ruling was uncontested until 1973, when Simeon filed the complaint for annulment of reconstituted title in the name of Eusebio Mahilum and Dionisia Blase.

We agree with the Court of Appeals that it was much too late for petitioners' claim. Laches had set in.[16]

In like manner, we agree with the Court of Appeals that the partition of the same lot was fraudulent. Rosario knew there was no other way to obtain the partition of the subject property than having her brother Simeon sign a deed of partition, making the latter believe that the deed pertained to the three other lots. The scheme was simple enough considering that Simeon was illiterate. The law, however, requires that in case one of the parties to a contract is unable to read and fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former.[17]

We are not persuaded that Rosario clearly and fully explained the contents of the deed of partition to her brother Simeon. Petitioners' allegations are negated by the fact that Simeon not only strongly opposed the survey of the land in 1970 but also filed a complaint for annulment of reconstituted title in 1973. Consent, having been obtained by fraud, the deed entered into could be annulled.[18] Hence, if the deed was null, the reconstituted title and all

transfer titles arising therefrom were also void.[19]

IN VIEW WHEREOF, the Court DENIES the petition for review, hereby AFFIRMING the decision of the Court of Appeals.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G.R. CV No. 34520, promulgated September 14, 1995, Solano, J., ponente, Benipayo and Galvez, JJ., concurring.

[2] Exh. “2”, Original Record, Vol. I, pp. 16-17

[3] Original Record, Vol. I, pp. 18-28.

[4] Rosario Mahilum’s deposition, p. 10, Original Record, Vol. I, p. 248.

[5] TSN, June 10, 1985, p. 10.

[6] Petition, annex “A”, Rollo, pp. 44-52.

[7] Docketed as CA-G.R. CV No. 34520.

[8] Petition, Annex “A”, Rollo, pp. 44-52.

[9] Filed on February 15, 1996, Petition, Rollo, pp. 10-43. On November 20, 1996, we gave due course to the petition.

[10] Rongavilla vs. Court of Appeals, 294 SCRA 289 [1998]; Cristobal vs. Court of Appeals, 353 Phil. 320 [1998]; Sarmiento vs. Court of Appeals, 353 Phil. 834 [1998]; Concepcion vs. Court of Appeals, G.R. No. 120706, January 31, 2000, citing Congregation of the Religious of the Virgin Mary vs. Court of Appeals, 353 Phil. 591 [1998] and Sarmiento vs. Court of Appeals, supra.

[11] Atillo vs. Court of Appeals, 266 SCRA 596 [1997]; Baricuatro vs. Court of Appeals, G.R. No. 105902, February 9, 2000, citing Titong vs. Court of Appeals, 287 SCRA 102, 111 [1998]; Bañas vs. Court of Appeals, G.R. No. 102967, February 10, 2000, citing Guerrero vs. Court of Appeals, 285 SCRA 670, 678 [1998], Sta. Maria vs. Court of Appeals, 285 SCRA 351, 357-358 [1998], citing Medina vs. Asistio, 191 SCRA 218, 223-224 [1990].

[12] Cebu Shipyard and Engineering Works, Inc. vs. William Lines, Inc., 306 SCRA 762, 774-775 [1999]; Fuentes vs. Court of Appeals, 268 SCRA 703 [1997].

[13] Yobido vs. Court of Appeals, 281 SCRA 1 [1997].

[14] Philippine Deposit Insurance Corporation vs. Court of Appeals, 283 SCRA 462 [1997]; Baricuatro vs. Court of Appeals, supra.

[15] Rivera vs. Court of Appeals, 348 Phil. 734, 743 [1998].

[16] Olizon v. Court of Appeals, 236 SCRA 148, [1994]; Heirs of Teodoro de la Cruz vs. Court of Appeals, 298 SCRA 172 [1998], citing Lola vs. Court of Appeals, 145 SCRA 439 [1986].

[17] Article 1332, Civil Code of the Philippines; *Lustan vs. Court of Appeals*, 266 SCRA 663 [1997].

[18] Article 1330, Civil Code of the Philippines; *Metropolitan Waterworks and Sewerage System vs. Court of Appeals*, 297 SCRA 287 [1998]; *Theis vs. Court of Appeals*, 268 SCRA 167 [1997].

[19] *Jose vs. Court of Appeals*, 192 SCRA 735 [1990].

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