

JESSIE V. PISUEÑA, PETITIONER, VS. HEIRS OF PETRA UNATING AND AQUILINO VILLAR, REPRESENTED BY SALVADOR UPOD AND DOLORES BAUTISTA, RESPONDENTS.

G.R. No. 132803. August 31, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Real property acquired during marriage is presumed to be conjugal. Such prima facie presumption, however, can be overturned by a cadastral court's specific finding, which has long become final, that the lot in question was paraphernal in character. The title to the entire property shall pass by operation of law to the buyer once the seller acquires title over it by hereditary succession, even if at the time of the execution of the deed of sale, the seller owned only a portion of the property.

The Case

Before us is a Petition for Review on Certiorari seeking to set aside the February 26, 1997 Decision of the Court of Appeals[1] (CA) in CA-GR CV No. 39955,[2] as well as its February 12, 1998 Resolution denying reconsideration. The assailed Decision affirmed in toto the ruling[3] of the Regional Trial Court (RTC) of Roxas City in Civil Case No. V-5462, which disposed as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the court renders judgment:

- Declaring the 'Escritura de Venta Absoluta' by Felix Villar and Catalina Villar in favor of Agustin Navarra, defendant's predecessor-in-interest, as valid with respect to the one-half share of the whole Lot. No. 1201, Cadastral 228 of the Cadastral of Ivisan, Capiz, located at Barangay Cabugao, Municipality of Ivisan, Province of Capiz, which is registered in the name of Petra Unating married to Aquilino Villar under Original Certificate of Title No. RO-6316 (18422) while the other half belongs to the plaintiffs as Heirs of Aquilino Villar;
- Dismissing the complaint for lack of merits;
- Dismissing parties' claim for damages and attorney's fees.

No costs."

The Facts

The present case is rooted in an action for recovery of (1) possession and ownership of a parcel of land, as well as (2) a sum of money and damages. Before the RTC of Roxas City on May 15, 1989, this case was originally filed against herein petitioner, Jessie Pisueña, by herein respondents, the heirs of Petra Unating and Aquilino Villar represented by Salvador Upod and Dolores Bautista.[4]

The CA adopted the trial court's summation of the facts as follows:[5]

"The lot in dispute, known as Lot 1201, Cadastral 228 of the Cadastral of Ivisan, Capiz, located at Barangay Cabugao, Municipality of Ivisan, Province of Capiz, is a registered land in the name of Petra Unating married

to Aquilino Villar under Original Certificate of Title No. 18422, containing an area of 83,536 square meters, more or less. Petra Unating died on October 1, 1948 while Aquilino Villar died on January 14, 1953. The spouses had two [legitimate] children, namely Felix Villar and Catalina Villar. Felix Villar died on October 24, 1962, while Catalina Villar died on February 21, 1967.

"For the purpose of this case, Felix Villar is represented by Dolores Villar Bautista, the eldest of his four children while Catalina Villar is represented by Salvador Villar Upod, the eldest of her three (3) children, all as plaintiffs [herein respondents].

"Defendant [herein petitioner], Jessie Pisueña, is the son-in-law of Agustin Navarra who was once a [m]unicipal [m]ayor of the Municipality of Ivisan. Agustin Navarra died on October 30, 1958.

"The land in question was a subject of court litigations between Dolores Bautista and Salvador Upod on one hand, and defendant Jessie Pisueña on the other. Thus, when Salvador Upod filed a petition for reconstitution of its title in Reconstitution Case No. 1408 before Branch I, then Court of First Instance of Capiz, defendant Jessie Pisueña filed his opposition. Nevertheless, the title was reconstituted in the name of the registered owners pursuant to the resolution of the court dated August 6, 1980 and it now has a reconstituted title under OCT No. RO-6316 (18422) in the name of the original registered owners

"Defendant Jessie Pisueña filed a petition for the surrender of withheld owner's duplicate certificate of title under Special Case No. 4610 against Salvador Upod, et. al. for [Quieting] of Title and Damages with Writ of Preliminary Prohibitory Injunction before this court then presided by Hon. Odon C. Yrad, Jr. who dismissed said complaint on August 27, 1984.

"Plaintiffs' evidence further show[s] that Salvador Upod and Dolores Bautista filed a complaint for ejectment with damages against defendant Jessie Pisueña and Norberto Tugna before the Municipal Court of Ivisan docketed as Civil Case No. 94.

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"Plaintiffs [respondents herein] contend that during the lifetime of the registered owners, Petra Unating and Aquilino Villar, they enjoyed the absolute ownership and possession of Lot No. 1201. However, sometime in 1950 (after the death of Petra Unating on October 1, 1948) Aquilino Villar entered into an oral partnership agreement for ten (10) years with Agustin Navarra involving the swampy portion of the lot in question consisting of around four (4) hectares. It was agreed that the area of around three (3) hectares shall further be developed into a fishpond while about one (1) hectare shall be converted into a fishpond with the investment capital of Agustin Navarra. Whatever excess there was in the capital so invested shall be used to make the fishpond productive. Parties agreed that the net income after deducting expenses shall be divided equally between Aquilino Villar and his co-heirs on one hand and Agustin Navarra on the other. The upland portion of the land was not included in the transaction, hence it remained in the possession of the plaintiffs. While alive, Agustin Navarra, who managed the partnership, religiously gave Aquilino Villar and his co-heirs their share. This arrangement continued until Aquilino Villar died on January 14, 1953. Thereafter, his share in the income of the partnership was delivered by Agustin Navarra to Felix Villar and Catalina Villar.

"Since Agustin Navarra died in 1958, Felix and Catalina Villar repossessed the land in question. They maintained their possession up to the time Felix and Catalina Villar died. Thereafter, the children of Felix and Catalina Villar continued the possession of their predecessor-in-interest until the defendant disturbed their possession sometime in 1974. However, in 1975, they regained physical possession of the disputed area. From 1975, there were intermittent disturbances and intrusions of their physical possession of the land in dispute by the defendant particularly the fishpond portion consisting of about four (4) hectares more or less which resulted [in] the filing of cases against one and the other as earlier stated.

"Sometime in 1982, the defendant, in the company of several men including policemen, wrested physical possession from the plaintiffs which possession of the defendant continued up to the present. Hence, this

complaint for its recovery particularly the fishpond portion.

"On the other hand, defendant counters that the whole land in dispute was sold by Felix Villar and Catalina Villar to Agustin Navarra on February 2, 1949. The contract in Spanish captioned "ESCRITURA DE VENTA ABSOLUTA" to evidence such sale was duly notarized by Jose Villagrancia, Notary Public, and was entered in his Notarial Register as Document No. 517; Page 7; Book IV; Series of 1949.

"On December 31, 1968, which [was] more than ten (10) years after the death of Agustin Navarra on October 30, 1958, his heirs executed a Deed of Extra Judicial Partition and Deed of Sale of the land in question in favor of the Spouses Jessie Pisueña and Rosalie Navarra. The document was notarized by Jose P. Brotarly, Notary Public, and docketed in his notarial register as Document No. 409; Page 83; Book No. VI; Series of 1968. From the time of the sale up to the present, the fishpond portion was in the possession of the spouses Jessie Pisueña and Rosalie Navarra. However, the upland portion is in the possession of Salvador Upod and Dolores Bautista by mere tolerance of the defendant. The latter denies any partnership agreement o[n] the fishpond portion by Agustin Navarra, their predecessor-in-interest, and the plaintiffs.

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On June 24, 1992, the trial court ruled that since the disputed lot was the conjugal property of Spouses Petra Unating and Aquilino Villar, its purported sale by Felix and Catalina Villar to Agustin Navarra could be considered valid. The court, however, ruled that its validity pertained only to the share of the late Petra Unating, considering that at the time of the sale, Aquilino Villar was still alive. It likewise held that the respondents, as heirs of Aquilino Villar, were entitled to his one-half share in the disputed lot.

Before the Court of Appeals, Dolores Bautista and Salvador Upod assailed the trial court's ruling upholding the validity of the Escritura de Venta Absoluta. Jessie Pisueña, on the other hand, questioned the court's conclusion that the subject lot was conjugal. He claimed that it was paraphernal, and that the Deed of Sale transferred the whole lot to Agustin Navarra, his predecessor-in-interest.

Ruling of the Court of Appeals

The appellate court affirmed the trial court's ruling in toto, holding that the disputed lot belonged to the conjugal partnership of Petra Unating and Aquilino Villar, viz.:

"Anent the first issue, defendant argues that Lot. 1201 was a paraphernal property of Petra Unating. In support of his argument, he mentions the decision of the Court of First Instance of Capiz in Reconstitution Case No. 1408, where in the dispositive portion thereof, said court ordered the reconstitution of the Original and Owner's copy of the Original Certificate of Title covering Lot 1201 'in the name of Petra Unating, 40 years old, married to Aquilino Villar, Filipino and residents of Ivisan, Capiz, having inherited said lot from her mother Margarita Argamaso.' He further argues that the mention of the name Aquilino Villar in the certificate of title is merely descriptive of the civil status of Petra Unating and the same could not convert the property into a conjugal one.

"We are not persuaded. The lower court rejected the statement of the Court of First Instance of Capiz in Reconstitution Case No. 1408 that Lot 1201 was inherited by Petra Unating from her mother. We agree with the lower court when it found the phrase 'having inherited said lot from her mother Margarita Argamaso' as a mere obiter, a finding of fact which we find no justifiable reason to set aside. It must be considered that the authority of the Court of First Instance of Capiz to declare Lot 1201 as having been inherited by Petra Unating from her mother is doubtful. We quote the pertinent ruling of the lower court, thus:

'Reconstitution of a certificate of title [denotes] restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. It is limited to the reconstitution of the certificate as it stood at the time of its loss or destruction and should not be stretched to include later changes which alter or affect the title of the registered owner. The original registered owner of Lot 1201 being Petra Unating married to Aquilino Villar. [That t]he title should be reconstituted in the same names and findings of said court as to the ownership of the land as paraphernal property of Petra Unating is an obiter. It therefore did not decide

whether Lot 1201 is a paraphernal or a conjugal property of the registered owners.'

"We further agree with the lower court when it held that 'in the absence [o]f any evidence [o]f any system [o]f property relation between Petra Unating and Aquilino Villar, it is presumed that it is one of conjugal partnership.' Besides, it appears that Lot 1201 was acquired during the marriage of the Spouses Petra Unating and Aquilino Villar, since the Original Certificate of Title indicates that Lot 1201 was registered in the name of Petra Unating, married to Aquilino Villar. Thus, the property is presumed conjugal.

"In resolving the question of presumption of conjugality, the Supreme Court had occasion to rule that:

'The presumption is a strong one. As stated in *Camia de Reyes v. Reyes de Ilano* (63 Phil 629,639), 'it is sufficient to prove that the property was acquired during the marriage in order that the same may be deemed conjugal property.' And in *Laluan v. Malpaya* (65 Phil 494, 504), we stated, "proof of acquisition of the property in dispute during the marriage suffices to render the statutory presumption operative.' (*Mendoza vs. Reyes*, 124 SCRA 154; emphasis supplied).

"Additionally, defendant Pisueña, who brought up the question of Lot 1201 being the paraphernal property of Petra Unating failed to adduce convincing and concrete evidence that would rebut the presumption of conjugality of the subject lot. Moreover, it is settled that registration alone of the property in the name of one of the spouses does not destroy the conjugal nature of the property. (*Mendoza vs. Reyes*, supra and *Bucoy vs. Paulino*, 23 SCRA 248).

The Court of Appeals also rejected Salvador Upod's attack on the Escritura de Venta Absoluta, reasoning that the Deed of Sale was duly notarized and that no evidence was presented to rebut its due execution, validity and admissibility as evidence. Furthermore, the appellate court noted that the respondents were aware of the nature and the content of the assailed Deed, and that they did not object to its translation given in the trial court.

Likewise, the CA debunked Upod's contention that Pisueña's cause of action had prescribed. It ruled:

"On the fourth issue, plaintiff Salvador Upod contends that defendant Pisueña could no longer enforce his right since Article 1144 of the Civil Code provides that an action based upon a written contract must be brought within ten years from the time the right of action accrues.

"The contention is not meritorious. It is obvious that the above-mentioned article does not apply in the case at bench since defendant Pisueñas [was] not the one who filed the complaint. Furthermore, defendant is in possession of the fishpond portion of the property in dispute. Assuming ex gratia argumenti that the aforementioned article is applicable, the claim of defendant Pisueña has not yet prescribed. Defendant Pisueña obtained his right over Lot 1201 by virtue of the Deed of Extrajudicial Partition and Deed of Sale dated December 31, 1968. In 1974, within the ten year prescriptive period, he filed his Answer to the complaint for ejectment filed by plaintiffs[,] (Exh. 'G') raising therein his ownership over Lot 1201. Also, he filed his Opposition (Exh. 'U') to the petition for reconstitution filed by plaintiff Salvador Upod. To our minds, this action and [the] pleadings filed by defendant Pisueña interrupted the prescriptive period.

"Anent the fifth issue, plaintiff Salvador Upod posits that the trial court failed to consider the decision of this court dated January 31, 1985 in AC-UDK Sp. No. 2273 which passed upon the defendant-appellant's rights over the subject property.

"A perusal of this Court's decision in said case (Exh. 'P') shows that, contrary to plaintiffs['] allegation, this Court thru Mr. Justice Purisima did not pass upon the rights of defendant Pisueña over Lot 1201. We take note that while the 'petition for Review' of the defendant was dismissed by this Court, the dismissal was anchored on the ground that 1) Petition for Review was not the appropriate remedy; 2) the summary proceedings for the surrender of the owner's duplicate provided for under Section 107 of P.D. 1529 or Section 112 of Act 496 is unavailing as there [exist] serious conflicting claims of ownership; and 3) the ordinary civil action for quieting

of title to Lot 1201 is not the proper remedy, since it is only the registered owner of the property affected who can sue as plaintiff. Clearly, the dismissal of said petition did not have any effect on the present case.

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"However, we agree with the plaintiffs' statement that the law applicable is the Old Civil Code, considering that Petra Unating died in 1948 before the effectivity in 1950 of the New Civil Code. Suffice it to say that we agree with the lower court when it ruled citing Prades vs. Tecson (49 Phil 479) and Rodriguez v. Borromeo (43 Phil 479) that 'when a spouse dies and the conjugal assets are not liquidated, a co-ownership over said assets may be formed among the surviving spouse and the heirs of the decedent.' Absent any showing that there are debts and charges against the conjugal assets, we therefore declare Aquilino Villar, the surviving spouse of Petra Unating, as the owner of the undivided one-half of their conjugal property, while their children, Felix and Catalina Villar, are the owners of the other undivided half, pursuant to Article 1426 of the Old Civil Code, xxx.

In all, the CA agreed with the trial court that the disputed lot should be divided equally between the heirs of Petra Unating on the one hand, and Jessie Pisueña on the other.

Asserting full ownership over the disputed property and claiming that the CA erred in ruling that Felix and Catalina could have sold only their one-half share in the property, Petitioner Pisueña filed this Petition for Review.[6]

Issues

Petitioner ascribes to the Court of Appeals the following specific errors:

"I. The Honorable Court of Appeals erred in affirming the ruling of the lower court that the phrase 'having inherited said lot from her mother Margarita Argamaso' [i]s a mere obiter.

"II. The Honorable Court of Appeals erred in ruling that Lot 1201 belongs to the conjugal [partnership] of Petra Unating and Aquilino Villar."

The Court's Ruling

The Petition is meritorious.

First Issue:

Paraphernal or Conjugal?

Both the CA and the RTC held that the disputed lot was conjugal and dismissed, as obiter, the phrase "having inherited said lot from her [Petra Unating's] mother, Margarita Argamaso" found in the dispositive portion of the Decision of the Court of First Instance (CFI) of Capiz in Reconstitution Case No. 1408. They explained that the CFI had no authority to include the phrase, because the only objective of reconstitution was to "restore the certificate covering the property as it stood at the time of its loss or destruction, and should not be stretched to include later changes which alter or affect the title of the registered owner." [7]

We do not agree. It must be emphasized that the dispositive portion of the 1930 Decision, which was rendered by the same CFI of Capiz acting as a cadastral court, already contained the questioned phrase. Therefore, it cannot be said that the CFI in 1980 exceeded its authority when it ordered the reconstitution, in Petra Unating's name, of the original certificate of title covering the disputed lot or in stating therein that she had inherited it from her mother. After all, such disposition was copied from the same court's 1930 Decision, as evidenced by an authentic copy of it on file with the Bureau of Lands in Capiz.

Cadastral proceedings are proceedings in rem; like ordinary registration proceedings, they are governed by the usual rules of practice, procedure and evidence.[8] A cadastral decree and a certificate of title are issued only after the applicants prove that they are entitled to the claimed lots, all parties are heard, and evidence is considered.

Thus, the finding of the cadastral court that Petra Unating inherited the lot in question from her mother cannot be dismissed as an obiter, which is "an observation made by the court not necessary to the decision rendered." [9] The conclusion of the cadastral court was found in the dispositive portion of its Decision, and it was material to the nature of Petra Unating's ownership of the lot. Furthermore, it was based on the evidence presented by the parties and considered by the said court. In any event, it must be pointed out that the Decision became final a long time ago, and a final judgment in a cadastral proceeding, or any other in rem proceeding for that matter, is binding and conclusive upon the whole world. [10] Therefore, the lot in dispute can properly be considered as a paraphernal property of Petra Unating. [11]

Concededly, properties acquired during the marriage are presumed to be conjugal. However, this prima facie presumption cannot prevail over the cadastral court's specific finding, reached in adversarial proceedings, that the lot was inherited by Petra Unating from her mother. Noteworthy is the fact that the parties do not assail the validity of the cadastral court's Decision. The 1980 reconstitution of the title to the lot in the name of "Petra Unating, 40 years old, married to Aquilino Villar, Filipino and resident of Ivisan, Capiz, having inherited said lot from her mother Margarita Argamaso x x x" was notice to the world, including her heirs and successors-in-interest, that it belonged to Petra as her paraphernal property. Thus, the words "married to" were merely descriptive of Petra Unating's status at the time the lot was awarded and registered in her name. [12]

Second Issue:

Efficacy of the Escritura

de Venta Absoluta

Petitioner Jessie Pisueña traces his claim over the disputed lot to his father-in-law, Agustin Navarra, who in turn acquired it on February 4, 1949 from Felix and Catalina Villar, Petra Unating's children. His claim is evidenced by a notarized Deed of Sale written in Spanish, captioned Escritura de Venta Absoluta. Private Respondent Salvador Upod, on the other hand, asserts that both the trial and the appellate courts erred in admitting the Deed, citing Section 33, Rule 132 of the Rules of Court, which provides:

"Documents written in an unofficial language shall not be admitted as evidence, unless accompanied with a translation into English or Filipino. To avoid interruption of the proceedings, parties or their attorneys are directed to have such translation prepared before trial."

We do not agree. Instead, we uphold the Court of Appeals' disquisition, which we quote:

"The assertion is without merit. The aforementioned rule is not always taken literally so long as there was no prejudice caused to the opposing party (People v. Salison, G.R. No. 115690, February 20, 1996). The records show that there was no prejudice caused to the plaintiffs who appear to be familiar with the contents or the nature of Exhibit '1'. As proof thereof, they even questioned the defendant on the subject document. Importantly, when required by the court to comment on the English translation of Exhibit '1' (p. 316, records) plaintiffs did not bother to comment giving rise to the presumption that the translation submitted was correct (p. 340, records). Hence, the court a quo did not err in admitting the Escritura de Venta Absoluta." [13]

Furthermore, the respondents were not able to impugn the due execution and validity of the notarized Deed.

Neither are we persuaded by Upod's argument that the petitioner's right has prescribed under Article 1144 of the Civil Code. [14] It is undisputed that he was already in possession of the fishpond when the present case was filed.

Petitioner and His Wife Are

Owners of the Disputed Lot

As already shown, the disputed lot was paraphernal. Since Petra Unating did not leave any other property, will or debt upon her demise in 1948, the property in question was thus inherited by her children, Felix and Catalina

Villar; and her husband, Aquilino Villar.[15] The two children were entitled to two-thirds of their mother's estate,[16] while the husband was entitled to the remaining one-third.[17]

By virtue of the Deed of Sale they executed, Felix and Catalina effectively transferred to Agustin Navarra on February 4, 1949, their title over their two-thirds share in the disputed lot. However, they could not have disposed of their father's share in the same property at the time, as they were not yet its owners. At the most, being the only children, they had an inchoate interest in their father's share.

When Aquilino Villar died in 1953 without disposing of his one-third share in the disputed property, Felix and Catalina's inchoate interest in it was actualized, because succession vested in them the title to their father's share and, consequently, to the entire lot. Thus, that title passed to Agustin Navarra, pursuant to Article 1434 of the present Civil Code, which was already in force at the time of Aquilino's death in 1953. This provision reads:

"When a person who is not the owner of the thing sells or alienates or delivers it, and later, the seller or grantor acquires title thereto, such title passes by operation of law to the buyer or grantee."

The aforequoted article was applied in *Llacer v. Muñoz*,[18] *Estoque v. Pajimula*,[19] *Bucton v. Gabar*[20] and *Quijada v. Court of Appeal*. [21] In each of these cases, the Court upheld the validity of the sale by one who previously did not have, but who subsequently acquired, title to the property sold.

Thus, although Felix and Catalina Villar were not yet the owners of the remaining one-third of the disputed lot when they sold it to Agustin Navarra on February 4, 1949, they became its owners upon their father's death on January 14, 1953. Pursuant to Article 1434, the title to the lot passed to Augustin Navarra.[22] It must be noted that at the time Felix and Catalina executed the Deed of Sale covering the disputed lot, they intended to sell the entire lot, not just their interest therein, as can be gleaned from a pertinent portion of the Deed, the English translation of which reads:

"xxx xxx xxx

DESCRIPTION

"A piece of mangrove and coconut grove land (Lot. No. 1201 of Cadastre of Ivisan), and its improvements, situated in the Municipality of Ivisan, Capiz; that is bounded N to Dapdap Creek; E. to Lot No. 1196, Sunsunan Creek; and S to Lots Nos. 1239 and 1151; and W to Dapdap Creek YB B.M. No. 21; and containing an area of Eighty Three Thousand Five Hundred Thirty Six square meters (83,536 sq. mts.) more or less; declared under Tax No. 609 and valued/ appraised at P490.00.

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"And finally, we make known, that from/on this date we hand over the said property, its possession/holding and absolute dominion of the aforesaid piece of land to the buyer, namely Mr. Agustin Navarra, his heirs and assignees, free from liens and liabilities/obligations, and of such title we promise and assure to defend now and always against all possible just claims/demands and claimants or those that may present them.

"xxx xxx xxx"[23]

Consequently, upon the death of Aquilino Villar, the ownership of the whole of Lot No. 1201 became vested in Jessie Pisueña and his wife.

WHEREFORE, the Petition is hereby GRANTED and the assailed Decision is SET ASIDE. Petitioner Jessie Pisueña and his wife, Rosalie Navarra, are hereby declared the owners of Lot. No. 1201, Cadastral 228 of the Cadastral of Ivisan, Capiz. The Register of Deeds of Capiz is AUTHORIZED to cancel the Original Certificate of Title in the name of Petra Unating and to issue a new Transfer Certificate of Title in the name of Spouses Jessie

Pisueña and Rosalie Navarra. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Third Division composed of Justices Arturo B. Buena, ponente and chairman; and Ma. Alicia Austria-Martinez and Bernardo L.L. Salas, members.

[2] Entitled "Heirs of Petra Unating et al. v. Jessie Pisueña."

[3] Written by Judge David A. Alfeche Jr.

[4] Initially, it was Dolores Bautista who, on November 9, 1987, filed a case for recovery of possession with a prayer for preliminary injunction or receivership against Pisueña and Upod. During the pretrial conference presided by Judge David A. Alfeche, the original Complaint was amended, with the heirs of Petra Unating and Aquilino Villar, represented by Dolores Bautista and Salvador Upod, as plaintiffs; and Jessie Pisueña as defendant.

[5] CA Decision, pp. 2-6; rollo, pp. 36-40. See also RTC Decision, pp. 1-4; rollo, pp. 58-61.

[6] The case was deemed submitted on April 29, 1999, upon receipt by the Court of the Memorandum of Dolores Bautista. The Court received Petitioner Pisueña's Memorandum on April 17, 1999, and Salvador Upod's Memorandum on April 13, 1999.

[7] CA Decision, p. 10; rollo, p. 44.

[8] Section 11 of Act 2259 states that, except when it otherwise provides, all the provisions of Act 496 as amended (now PD 1529) are applicable to cadastral proceedings.

[9] Moreno, Philippine Law Dictionary, 2nd ed., p. 422.

[10] See *Director of Lands v. Aba*, 68 Phil. 85, May 12, 1939; *Director of Lands v. Roman Catholic Archbishop of Manila*, 41 Phil. 120, October 27, 1920.

[11] Art. 1381 of the old Civil Code defined paraphernal property as, "xxx that which the wife brings in marriage without including it in the dowry and that which she may acquire after its constitution without adding it to the dowry." In *Alvaran v. Marquez*, 11 Phil. 263, property which the wife inherited from her mother during the marriage was considered as paraphernal. See also *Veloso v. Avila*, 60 Phil. 208, June 23, 1934; *Osorio v. Posadas*, 56 Phil. 748, December 3, 1949; *Ramos v. Castelo*, 36 Phil. 876, September 20, 1917; *Javier v. Osmeña*, 34 Phil. 336, March 23, 1916; and *Veloso v. Martinez*, 28 Phil. 255, October 4, 1914.

[12] See *Magallon v. Montejo*, 146 SCRA 282, December 16, 1986; *Stuart v. Yatco*, 4 SCRA 1143, April 27, 1962; *Litam v. Espiritu*, 100 Phil. 364, November 27, 1956.

[13] CA Decision, p. 11; rollo, p. 45.

[14] It provides that an action upon a written contract must be filed within ten years from the time the cause of action accrues.

[15] Art. 807, Old Civil Code. The following are forced heirs:

- Legitimate children and descendants, with respect to their legitimate parents and ascendants.

- In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants.
- The widower or widow, natural children legally acknowledged, and the father or the mother of the latter, in the manner, and to the extent established by Articles 834, 835, 836, 837, 841, 842 and 846.

[16] Art. 808, Old Civil Code. The legitime of legitimate children and descendants consist of two-thirds of the hereditary estate of the father or of the mother. Nevertheless, the latter may dispose of one of the two thirds forming the legitime in order to apply it as a betterment to their legitimate children or descendants. They may freely dispose of the remaining third.

[17] Art. 834, Old Civil Code. Any widower or widow who, on the death of his or her spouse, is not divorced or should be so at the fault of the deceased, shall be entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children or descendants who have not received any betterment. xxx.

[18] 12 PHIL 328, December 23, 1908. In this case, the plaintiff alleged that the defendant could not have acquired title over the disputed property at the time he allegedly bought the same from plaintiff's father in 1877, as the latter had obtained his title to it only in 1881. The Court said: "Granting, however, that he did not obtain a portion of the land until some years after he had sold such land to Antonio Muñoz, his subsequent acquisition of the land would have the effect of making his conveyance of the same to Muñoz valid."

[19] 24 SCRA 59, July 15, 1968. In this case, the Court held: "While on the date of the sale to Estoque said contract may have been ineffective, for lack of power in the vendor to sell the specific portion described in the deed, the transaction was validated and became fully effective when the next day, October 29, 1951, the vendor, Crispina Perez, became the sole owner of Lot No. 802 of the Rosario Cadastral Survey, Article 1434 of the new Civil Code applied.

[20] 55 SCRA 499, January 31, 1974. The Court said: "Although at the time said petitioner paid P1,000 as part payment of the purchase price on January 19, 1946, private respondents were not yet the owner of the lot; they became such owners on January 24, 1947, when a deed of sale was executed in their favor by the Villarin spouses. In the premises, Article 1434 of the Civil Code, which provides that 'when a person who is not the owner of the thing sells or alienates title thereto, such title passes by operation of law to the buyer or grantee,' is applicable."

[21] GR No. 109767, December 4, 1998. In this case, Quijada, we upheld the validity of the sale made by Trinidad Quijada, petitioners' predecessor-in-interest, in favor of the private respondents, even if the object of the sale was property donated by the former, reasoning that she had retained an inchoate interest by virtue of the reversion clause in the Deed of Donation. Worth repeating is the Court's disquisition on the matter, viz:

"The donor may have an inchoate interest in the donated property during the time that ownership of the land has not reverted to her. Such inchoate interest may be the subject of contracts, including a contract of sale. xxx

xxx xxx xxx

"Be that as it may, there is one thing that militates against the claim of petitioners. Sale, being a consensual contract, is perfected by mere consent, which is manifested the moment there is a meeting of the minds as to the offer and acceptance thereof on three elements: subject matter, price and terms of payment of the price. Ownership by the seller of the thing sold at the time of the perfection of the contract of sale is not an element for its perfection. What the law requires is that [the] seller has the right to transfer ownership at the time the thing sold is delivered. Perfection per se does not transfer ownership which occurs upon the actual or constructive delivery of the thing sold. A perfected contract of sale cannot be challenged on the ground of non-ownership on the part of the seller at the time of its perfection; hence the sale is still valid.

"The consummation, however, of the perfected contract is another matter. It occurs upon the constructive or

actual delivery of the subject matter to the buyer when the seller or her successors-in-interest subsequently acquires ownership thereof. Such circumstance happened in this case, when petitioners -- who are Trinidad Quijada's heirs and successors-in-interest -- became the owners of the subject property upon the reversion of the ownership of the land to them. Consequently, ownership is transferred to respondent Mondejar and those who claim their right from him. Article 1434 of the New Civil Code supports the ruling that the seller's "title passes by operation of law to the buyer." This rule applies not only when the subject matter of the contract of sale is goods, but also to other kinds of property, including real property."

[22] Although the Escritura was executed before the effectivity of the new Civil Code, the Court nonetheless ruled in *Llacer* (*supra*) that a deed of sale executed before 1950 conveyed the property, even if at the time the sale was perfected, the seller had no title, provided that he subsequently acquired it.

[23] *Rollo*, p. 73.

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