

FEDERICO JARANTILLA, JR., PETITIONER, VS. ANTONIETA JARANTILLA, BUENAVENTURA REMOTIGUE, SUBSTITUTED BY CYNTHIA REMOTIGUE, DOROTEO JARANTILLA AND TOMAS JARANTILLA, RESPONDENTS.

G.R. No. 154486. December 01, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This petition for review on certiorari[1] seeks to modify the Decision[2] of the Court of Appeals dated July 30, 2002 in CA-G.R. CV No. 40887, which set aside the Decision[3] dated December 18, 1992 of the Regional Trial Court (RTC) of Quezon City, Branch 98 in Civil Case No. Q-50464.

The pertinent facts are as follows:

The spouses Andres Jarantilla and Felisa Jaleco were survived by eight children: Federico, Delfin, Benjamin, Conchita, Rosita, Pacita, Rafael and Antonieta.[4] Petitioner Federico Jarantilla, Jr. is the grandchild of the late Jarantilla spouses by their son Federico Jarantilla, Sr. and his wife Leda Jamili.[5] Petitioner also has two other brothers: Doroteo and Tomas Jarantilla.

Petitioner was one of the defendants in the complaint before the RTC while Antonieta Jarantilla, his aunt, was the plaintiff therein. His co-respondents before he joined his aunt Antonieta in her complaint, were his late aunt Conchita Jarantilla's husband Buenaventura Remotigue, who died during the pendency of the case, his cousin Cynthia Remotigue, the adopted daughter of Conchita Jarantilla and Buenaventura Remotigue, and his brothers Doroteo and Tomas Jarantilla.[6]

In 1948, the Jarantilla heirs extrajudicially partitioned amongst themselves the real properties of their deceased parents.[7] With the exception of the real property adjudicated to Pacita Jarantilla, the heirs also agreed to allot the produce of the said real properties for the years 1947-1949 for the studies of Rafael and Antonieta Jarantilla.[8]

In the same year, the spouses Rosita Jarantilla and Vivencio Deocampo entered into an agreement with the spouses Buenaventura Remotigue and Conchita Jarantilla to provide mutual assistance to each other by way of financial support to any commercial and agricultural activity on a joint business arrangement. This business relationship proved to be successful as they were able to establish a manufacturing and trading business, acquire real properties, and construct buildings, among other things.[9] This partnership ended in 1973 when the parties, in an "Agreement,"[10] voluntarily agreed to completely dissolve their "joint business relationship/arrangement." [11]

On April 29, 1957, the spouses Buenaventura and Conchita Remotigue executed a document wherein they acknowledged that while registered only in Buenaventura Remotigue's name, they were not the only owners of the capital of the businesses Manila Athletic Supply (712 Raon Street, Manila), Remotigue Trading (Calle Real, Iloilo City) and Remotigue Trading (Cotabato City). In this same "Acknowledgement of Participating Capital," they

stated the participating capital of their co-owners as of the year 1952, with Antonieta Jarantilla's stated as eight thousand pesos (P8,000.00) and Federico Jarantilla, Jr.'s as five thousand pesos (P5,000.00).[12]

The present case stems from the amended complaint[13] dated April 22, 1987 filed by Antonieta Jarantilla against Buenaventura Remotigue, Cynthia Remotigue, Federico Jarantilla, Jr., Doroteo Jarantilla and Tomas Jarantilla, for the accounting of the assets and income of the co-ownership, for its partition and the delivery of her share corresponding to eight percent (8%), and for damages. Antonieta claimed that in 1946, she had entered into an agreement with Conchita and Buenaventura Remotigue, Rafael Jarantilla, and Rosita and Vivencio Deocampo to engage in business. Antonieta alleged that the initial contribution of property and money came from the heirs' inheritance, and her subsequent annual investment of seven thousand five hundred pesos (P7,500.00) as additional capital came from the proceeds of her farm. Antonieta also alleged that from 1946-1969, she had helped in the management of the business they co-owned without receiving any salary. Her salary was supposedly rolled back into the business as additional investments in her behalf. Antonieta further claimed co-ownership of certain properties[14] (the subject real properties) in the name of the defendants since the only way the defendants could have purchased these properties were through the partnership as they had no other source of income.

The respondents, including petitioner herein, in their Answer,[15] denied having formed a partnership with Antonieta in 1946. They claimed that she was in no position to do so as she was still in school at that time. In fact, the proceeds of the lands they partitioned were devoted to her studies. They also averred that while she may have helped in the businesses that her older sister Conchita had formed with Buenaventura Remotigue, she was paid her due salary. They did not deny the existence and validity of the "Acknowledgement of Participating Capital" and in fact used this as evidence to support their claim that Antonieta's 8% share was limited to the businesses enumerated therein. With regard to Antonieta's claim in their other corporations and businesses, the respondents said these should also be limited to the number of her shares as specified in the respective articles of incorporation. The respondents denied using the partnership's income to purchase the subject real properties and said that the certificates of title should be binding on her.[16]

During the course of the trial at the RTC, petitioner Federico Jarantilla, Jr., who was one of the original defendants, entered into a compromise agreement[17] with Antonieta Jarantilla wherein he supported Antonieta's claims and asserted that he too was entitled to six percent (6%) of the supposed partnership in the same manner as Antonieta was. He prayed for a favorable judgment in this wise:

Defendant Federico Jarantilla, Jr., hereby joins in plaintiff's prayer for an accounting from the other defendants, and the partition of the properties of the co-ownership and the delivery to the plaintiff and to defendant Federico Jarantilla, Jr. of their rightful share of the assets and properties in the co-ownership.[18]

The RTC, in an Order[19] dated March 25, 1992, approved the Joint Motion to Approve Compromise Agreement[20] and on December 18, 1992, decided in favor of Antonieta, to wit:

WHEREFORE, premises above-considered, the Court renders judgment in favor of the plaintiff Antonieta Jarantilla and against defendants Cynthia Remotigue, Doroteo Jarantilla and Tomas Jarantilla ordering the latter:

- to deliver to the plaintiff her 8% share or its equivalent amount on the real properties covered by TCT Nos. 35655, 338398, 338399 & 335395, all of the Registry of Deeds of Quezon City; TCT Nos. (18303)23341, 142882 & 490007(4615), all of the Registry of Deeds of Rizal; and TCT No. T-6309 of the Registry of Deeds of Cotabato based on their present market value;
- to deliver to the plaintiff her 8% share or its equivalent amount on the Remotigue Agro-Industrial Corporation, Manila Athletic Supply, Inc., MAS Rubber Products, Inc. and Buendia Recapping Corporation

based on the shares of stocks present book value;

- to account for the assets and income of the co-ownership and deliver to plaintiff her rightful share thereof equivalent to 8%;
- to pay plaintiff, jointly and severally, the sum of P50,000.00 as moral damages;
- to pay, jointly and severally, the sum of P50,000.00 as attorney's fees; and
- to pay, jointly and severally, the costs of the suit.[21]

Both the petitioner and the respondents appealed this decision to the Court of Appeals. The petitioner claimed that the RTC "erred in not rendering a complete judgment and ordering the partition of the co-ownership and giving to [him] six per centum (6%) of the properties." [22]

While the Court of Appeals agreed to some of the RTC's factual findings, it also established that Antonieta Jarantilla was not part of the partnership formed in 1946, and that her 8% share was limited to the businesses enumerated in the Acknowledgement of Participating Capital. On July 30, 2002, the Court of Appeals rendered the herein challenged decision setting aside the RTC's decision, as follows:

WHEREFORE, the decision of the trial court, dated 18 December 1992 is SET ASIDE and a new one is hereby entered ordering that:

(1) after accounting, plaintiff Antonieta Jarantilla be given her share of 8% in the assets and profits of Manila Athletic Supply, Remotigue Trading in Iloilo City and Remotigue Trading in Cotabato City;

(2) after accounting, defendant Federico Jarantilla, Jr. be given his share of 6% of the assets and profits of the above-mentioned enterprises; and, holding that

(3) plaintiff Antonieta Jarantilla is a stockholder in the following corporations to the extent stated in their Articles of Incorporation:

- (a) Rural Bank of Barotac Nuevo, Inc.;
- (b) MAS Rubber Products, Inc.;
- (c) Manila Athletic Supply, Inc.; and
- (d) B. Remotigue Agro-Industrial Development Corp.

(4) No costs.[23]

The respondents, on August 20, 2002, filed a Motion for Partial Reconsideration but the Court of Appeals denied this in a Resolution[24] dated March 21, 2003.

Antonieta Jarantilla filed before this Court her own petition for review on certiorari[25] dated September 16, 2002, assailing the Court of Appeals' decision on "similar grounds and similar assignments of errors as this present case"[26] but it was dismissed on November 20, 2002 for failure to file the appeal within the reglementary period of fifteen (15) days in accordance with Section 2, Rule 45 of the Rules of Court.[27]

Petitioner filed before us this petition for review on the sole ground that:

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT PETITIONER FEDERICO JARANTILLA, JR. IS ENTITLED TO A SIX PER CENTUM (6%) SHARE OF THE OWNERSHIP OF THE REAL PROPERTIES ACQUIRED BY THE OTHER DEFENDANTS USING COMMON FUNDS FROM THE BUSINESSES WHERE HE HAD OWNED SUCH SHARE.[28]

Petitioner asserts that he was in a partnership with the Remotigue spouses, the Deocampo spouses, Rosita Jarantilla, Rafael Jarantilla, Antonieta Jarantilla and Quintin Vismanos, as evidenced by the Acknowledgement of

Participating Capital the Remotigue spouses executed in 1957. He contends that from this partnership, several other corporations and businesses were established and several real properties were acquired. In this petition, he is essentially asking for his 6% share in the subject real properties. He is relying on the Acknowledgement of Participating Capital, on his own testimony, and Antonieta Jarantilla's testimony to support this contention.

The core issue is whether or not the partnership subject of the Acknowledgement of Participating Capital funded the subject real properties. In other words, what is the petitioner's right over these real properties?

It is a settled rule that in a petition for review on certiorari under Rule 45 of the Rules of Civil Procedure, only questions of law may be raised by the parties and passed upon by this Court.[29]

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.[30]

Since the Court of Appeals did not fully adopt the factual findings of the RTC, this Court, in resolving the questions of law that are now in issue, shall look into the facts only in so far as the two courts a quo differed in their appreciation thereof.

The RTC found that an unregistered partnership existed since 1946 which was affirmed in the 1957 document, the "Acknowledgement of Participating Capital." The RTC used this as its basis for giving Antonieta Jarantilla an 8% share in the three businesses listed therein and in the other businesses and real properties of the respondents as they had supposedly acquired these through funds from the partnership.[31]

The Court of Appeals, on the other hand, agreed with the RTC as to Antonieta's 8% share in the business enumerated in the Acknowledgement of Participating Capital, but not as to her share in the other corporations and real properties. The Court of Appeals ruled that Antonieta's claim of 8% is based on the "Acknowledgement of Participating Capital," a duly notarized document which was specific as to the subject of its coverage. Hence, there was no reason to pattern her share in the other corporations from her share in the partnership's businesses. The Court of Appeals also said that her claim in the respondents' real properties was more "precarious" as these were all covered by certificates of title which served as the best evidence as to all the matters contained therein.[32] Since petitioner's claim was essentially the same as Antonieta's, the Court of Appeals also ruled that petitioner be given his 6% share in the same businesses listed in the Acknowledgement of Participating Capital.

Factual findings of the trial court, when confirmed by the Court of Appeals, are final and conclusive except in the following cases: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the

evidence on record.[33]

In this case, we find no error in the ruling of the Court of Appeals.

Both the petitioner and Antonieta Jarantilla characterize their relationship with the respondents as a co-ownership, but in the same breath, assert that a verbal partnership was formed in 1946 and was affirmed in the 1957 Acknowledgement of Participating Capital.

There is a co-ownership when an undivided thing or right belongs to different persons.[34] It is a partnership when two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.[35] The Court, in *Pascual v. The Commissioner of Internal Revenue*,[36] quoted the concurring opinion of Mr. Justice Angelo Bautista in *Evangelista v. The Collector of Internal Revenue*[37] to further elucidate on the distinctions between a co-ownership and a partnership, to wit:

I wish however to make the following observation: Article 1769 of the new Civil Code lays down the rule for determining when a transaction should be deemed a partnership or a co-ownership. Said article paragraphs 2 and 3, provides;

(2) Co-ownership or co-possession does not itself establish a partnership, whether such co-owners or co-possessioners do or do not share any profits made by the use of the property;

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived;

From the above it appears that the fact that those who agree to form a co- ownership share or do not share any profits made by the use of the property held in common does not convert their venture into a partnership. Or the sharing of the gross returns does not of itself establish a partnership whether or not the persons sharing therein have a joint or common right or interest in the property. This only means that, aside from the circumstance of profit, the presence of other elements constituting partnership is necessary, such as the clear intent to form a partnership, the existence of a juridical personality different from that of the individual partners, and the freedom to transfer or assign any interest in the property by one with the consent of the others.

It is evident that an isolated transaction whereby two or more persons contribute funds to buy certain real estate for profit in the absence of other circumstances showing a contrary intention cannot be considered a partnership.

Persons who contribute property or funds for a common enterprise and agree to share the gross returns of that enterprise in proportion to their contribution, but who severally retain the title to their respective contribution, are not thereby rendered partners. They have no common stock or capital, and no community of interest as principal proprietors in the business itself which the proceeds derived.

A joint purchase of land, by two, does not constitute a co-partnership in respect thereto; nor does an agreement to share the profits and losses on the sale of land create a partnership; the parties are only tenants in common.

Where plaintiff, his brother, and another agreed to become owners of a single tract of realty, holding as tenants in common, and to divide the profits of disposing of it, the brother and the other not being entitled to share in plaintiff's commission, no partnership existed as between the three parties, whatever their relation may have been as to third parties.

In order to constitute a partnership inter sese there must be: (a) An intent to form the same; (b) generally participating in both profits and losses; (c) and such a community of interest, as far as third persons are concerned as enables each party to make contract, manage the business, and dispose of the whole property. x x x.

The common ownership of property does not itself create a partnership between the owners, though they may use it for the purpose of making gains; and they may, without becoming partners, agree among themselves as to the management, and use of such property and the application of the proceeds therefrom.[38] (Citations omitted.)

Under Article 1767 of the Civil Code, there are two essential elements in a contract of partnership: (a) an agreement to contribute money, property or industry to a common fund; and (b) intent to divide the profits among the contracting parties. The first element is undoubtedly present in the case at bar, for, admittedly, all the parties in this case have agreed to, and did, contribute money and property to a common fund. Hence, the issue narrows down to their intent in acting as they did.[39] It is not denied that all the parties in this case have agreed to contribute capital to a common fund to be able to later on share its profits. They have admitted this fact, agreed to its veracity, and even submitted one common documentary evidence to prove such partnership - the Acknowledgement of Participating Capital.

As this case revolves around the legal effects of the Acknowledgement of Participating Capital, it would be instructive to examine the pertinent portions of this document:

ACKNOWLEDGEMENT OF
PARTICIPATING CAPITAL

KNOW ALL MEN BY THESE PRESENTS:

That we, the spouses Buenaventura Remotigue and Conchita Jarantilla de Remotigue, both of legal age, Filipinos and residents of Loyola Heights, Quezon City, P.I. hereby state:

That the Manila Athletic Supply at 712 Raon, Manila, the Remotigue Trading of Calle Real, Iloilo City and the Remotigue Trading, Cotabato Branch, Cotabato, P.I., all dealing in athletic goods and equipments, and general merchandise are recorded in their respective books with Buenaventura Remotigue as the registered owner and are being operated by them as such:

That they are not the only owners of the capital of the three establishments and their participation in the capital of the three establishments together with the other co-owners as of the year 1952 are stated as follows:

1. Buenaventura Remotigue (TWENTY-FIVE THOUSAND)

P25,000.00

2. Conchita Jarantilla de Remotigue (TWENTY-FIVE THOUSAND).....

25,000.00

3. Vicencio Deocampo (FIFTEEN THOUSAND).....

15,000.00

4. Rosita J. Deocampo (FIFTEEN THOUSAND).....

15,000.00

5. Antonieta Jarantilla (EIGHT THOUSAND).....

8,000.00

6. Rafael Jarantilla (SIX THOUSAND).....

6,000.00

7. Federico Jarantilla, Jr. (FIVE THOUSAND).....

5,000.00

8. Quintin Vismanos (TWO THOUSAND).....

2,000.00

That aside from the persons mentioned in the next preceding paragraph, no other person has any interest in the above-mentioned three establishments.

IN WITNESS WHEREOF, they sign this instrument in the City of Manila, P.I., this 29[th] day of April, 1957.

[Sgd.]

BUENAVENTURA REMOTIGUE

[Sgd.]

CONCHITA JARANTILLA DE REMOTIGUE[40]

The Acknowledgement of Participating Capital is a duly notarized document voluntarily executed by Conchita Jarantilla-Remotigue and Buenaventura Remotigue in 1957. Petitioner does not dispute its contents and is actually relying on it to prove his participation in the partnership. Article 1797 of the Civil Code provides:

Art. 1797. The losses and profits shall be distributed in conformity with the agreement. If only the share of each partner in the profits has been agreed upon, the share of each in the losses shall be in the same proportion.

In the absence of stipulation, the share of each partner in the profits and losses shall be in proportion to what he may have contributed, but the industrial partner shall not be liable for the losses. As for the profits, the industrial partner shall receive such share as may be just and equitable under the circumstances. If besides his services he has contributed capital, he shall also receive a share in the profits in proportion to his capital. (Emphases supplied.)

It is clear from the foregoing that a partner is entitled only to his share as agreed upon, or in the absence of any such stipulations, then to his share in proportion to his contribution to the partnership. The petitioner himself claims his share to be 6%, as stated in the Acknowledgement of Participating Capital. However, petitioner fails to realize that this document specifically enumerated the businesses covered by the partnership: Manila Athletic Supply, Remotigue Trading in Iloilo City and Remotigue Trading in Cotabato City. Since there was a clear agreement that the capital the partners contributed went to the three businesses, then there is no reason to deviate from such agreement and go beyond the stipulations in the document. Therefore, the Court of Appeals did not err in limiting petitioner's share to the assets of the businesses enumerated in the Acknowledgement of Participating Capital.

In *Villareal v. Ramirez*,^[41] the Court held that since a partnership is a separate juridical entity, the shares to be paid out to the partners is necessarily limited only to its total resources, to wit:

Since it is the partnership, as a separate and distinct entity, that must refund the shares of the partners, the amount to be refunded is necessarily limited to its total resources. In other words, it can only pay out what it has in its coffers, which consists of all its assets. However, before the partners can be paid their shares, the creditors of the partnership must first be compensated. After all the creditors have been paid, whatever is left of the partnership assets becomes available for the payment of the partners' shares.^[42]

There is no evidence that the subject real properties were assets of the partnership referred to in the Acknowledgement of Participating Capital.

The petitioner further asserts that he is entitled to respondents' properties based on the concept of trust. He claims that since the subject real properties were purchased using funds of the partnership, wherein he has a 6% share, then "law and equity mandates that he should be considered as a co-owner of those properties in such proportion." [43] In *Pigao v. Rabanillo*, [44] this Court explained the concept of trusts, to wit:

Express trusts are created by the intention of the trustor or of the parties, while implied trusts come into being by operation of law, either through implication of an intention to create a trust as a matter of law or through the imposition of the trust irrespective of, and even contrary to, any such intention. In turn, implied trusts are either resulting or constructive trusts. Resulting trusts are based on the equitable doctrine that valuable consideration and not legal title determines the equitable title or interest and are presumed always to have been contemplated by the parties. They arise from the nature or circumstances of the consideration involved in a transaction whereby one person thereby becomes invested with legal title but is obligated in equity to hold his legal title for the benefit of another. [45]

On proving the existence of a trust, this Court held that:

Respondent has presented only bare assertions that a trust was created. Noting the need to prove the existence of a trust, this Court has held thus:

"As a rule, the burden of proving the existence of a trust is on the party asserting its existence, and such proof must be clear and satisfactorily show the existence of the trust and its elements. While implied trusts may be proved by oral evidence, the evidence must be trustworthy and received by the courts with extreme caution, and should not be made to rest on loose, equivocal or indefinite declarations. Trustworthy evidence is required because oral evidence can easily be fabricated." [46]

The petitioner has failed to prove that there exists a trust over the subject real properties. Aside from his bare allegations, he has failed to show that the respondents used the partnership's money to purchase the said properties. Even assuming arguendo that some partnership income was used to acquire these properties, the petitioner should have successfully shown that these funds came from his share in the partnership profits. After all, by his own admission, and as stated in the Acknowledgement of Participating Capital, he owned a mere 6% equity in the partnership.

In essence, the petitioner is claiming his 6% share in the subject real properties, by relying on his own self-serving testimony and the equally biased testimony of Antonieta Jarantilla. Petitioner has not presented evidence, other than these unsubstantiated testimonies, to prove that the respondents did not have the means to fund their other businesses and real properties without the partnership's income. On the other hand, the respondents have not only, by testimonial evidence, proven their case against the petitioner, but have also presented sufficient documentary evidence to substantiate their claims, allegations and defenses. They presented preponderant proof on how they acquired and funded such properties in addition to tax receipts and tax declarations. [47] It has been held that "while tax declarations and realty tax receipts do not conclusively prove ownership, they may constitute strong evidence of ownership when accompanied by possession for a period sufficient for prescription." [48] Moreover, it is a rule in this jurisdiction that testimonial evidence cannot prevail over documentary evidence. [49] This Court had on several occasions, expressed our disapproval on using mere self-serving testimonies to support one's claim. In *Ocampo v. Ocampo*, [50] a case on partition of a co-ownership, we held that:

Petitioners assert that their claim of co-ownership of the property was sufficiently proved by their witnesses -- Luisa Ocampo-Llorin and Melita Ocampo. We disagree. Their testimonies cannot prevail over the array of documents presented by Belen. A claim of ownership cannot be based simply on the testimonies of witnesses; much less on those of interested parties, self-serving as they are. [51]

It is true that a certificate of title is merely an evidence of ownership or title over the particular property described

therein. Registration in the Torrens system does not create or vest title as registration is not a mode of acquiring ownership; hence, this cannot deprive an aggrieved party of a remedy in law.[52] However, petitioner asserts ownership over portions of the subject real properties on the strength of his own admissions and on the testimony of Antonieta Jarantilla. As held by this Court in *Republic of the Philippines v. Orfinada, Sr.*[53]:

Indeed, a Torrens title is generally conclusive evidence of ownership of the land referred to therein, and a strong presumption exists that a Torrens title was regularly issued and valid. A Torrens title is incontrovertible against any information possessoria, of other title existing prior to the issuance thereof not annotated on the Torrens title. Moreover, persons dealing with property covered by a Torrens certificate of title are not required to go beyond what appears on its face.[54]

As we have settled that this action never really was for partition of a co-ownership, to permit petitioner's claim on these properties is to allow a collateral, indirect attack on respondents' admitted titles. In the words of the Court of Appeals, "such evidence cannot overpower the conclusiveness of these certificates of title, more so since plaintiff's [petitioner's] claims amount to a collateral attack, which is prohibited under Section 48 of Presidential Decree No. 1529, the Property Registration Decree." [55]

SEC. 48. Certificate not subject to collateral attack. - A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

This Court has deemed an action or proceeding to be "an attack on a title when its objective is to nullify the title, thereby challenging the judgment pursuant to which the title was decreed." [56] In *Aguilar v. Alfaro*, [57] this Court further distinguished between a direct and an indirect or collateral attack, as follows:

A collateral attack transpires when, in another action to obtain a different relief and as an incident to the present action, an attack is made against the judgment granting the title. This manner of attack is to be distinguished from a direct attack against a judgment granting the title, through an action whose main objective is to annul, set aside, or enjoin the enforcement of such judgment if not yet implemented, or to seek recovery if the property titled under the judgment had been disposed of. x x x.

Petitioner's only piece of documentary evidence is the Acknowledgement of Participating Capital, which as discussed above, failed to prove that the real properties he is claiming co-ownership of were acquired out of the proceeds of the businesses covered by such document. Therefore, petitioner's theory has no factual or legal leg to stand on.

WHEREFORE, the Petition is hereby DENIED and the Decision of the Court of Appeals in CA-G.R. CV No. 40887, dated July 30, 2002 is AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Peralta, [*] Abad, [**] and Perez, JJ., concur.

[*] Per Special Order No. 913 dated November 2, 2010.

[**] Per Special Order No. 917 dated November 24, 2010.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 34-45; penned by Associate Justice Buenaventura J. Guerrero with Associate Justices Rodrigo V. Cosico and Perlita J. Tria Tirona concurring.

[3] *Id.* at 105-110.

[4] Id at 34.

[5] Records, Vol. I, p. 1.

[6] Rollo, p. 49.

[7] Id at 34-35.

[8] Records, Vol. I, p. 1.

[9] Id at 7.

[10] Id at 7-9.

[11] Id at 7.

[12] Id at 6.

[13] Rollo, pp. 48-57.

[14] Rollo, p. 18; the subject real properties are covered by TCT Nos. 35655, 338398, 338399 & 335395, all of the Registry of Deeds of Quezon City; TCT Nos. (18303)23341, 142882 & 490007(4615), all of the Registry of Deeds of Rizal; and TCT No. T-6309 of the Registry of Deeds of Cotabato.

[15] Id. at 72-76.

[16] Id. at 111-197.

[17] Id. at 83-87.

[18] Id. at 85-86.

[19] Id. at 102-104.

[20] Id. at 83-87.

[21] Id. at 109-110.

[22] Id. at 205.

[23] Id. at 44.

[24] CA rollo, p. 564.

[25] Docketed as G.R. No. 154722.

[26] Rollo, p. 313.

[27] CA rollo, p. 284.

[28] Rollo, p. 20.

[29] Vector Shipping Corporation v. Macasa, G.R. No. 160219, July 21, 2008, 559 SCRA 105.

[30] Binay v. Odeña, G.R. No. 163683, June 8, 2007, 524 SCRA 248, 255-256, citing Velayo-Fong v. Velayo, G.R. No. 155488, December 6, 2006, 510 SCRA 320, 329-330.

[31] Rollo, pp. 105-110.

[32] Id. at 42.

- [33] Go v. Court of Appeals, 403 Phil. 883, 890 (2001).
- [34] Civil Code, Art. 484.
- [35] Civil Code, Art. 1767.
- [36] 248 Phil. 788 (1988).
- [37] 102 Phil. 140 (1957).
- [38] Pascual v. The Commissioner of Internal Revenue, *supra* note 36 at 795-796.
- [39] *Id.* at 795.
- [40] Records, Vol. I, p. 6.
- [41] 453 Phil. 999 (2003).
- [42] *Id.* at 1008-1009.
- [43] Rollo, p. 24.
- [44] G.R. No. 150712, May 2, 2006, 488 SCRA 546.
- [45] *Id.* at 560-561.
- [46] Oco v. Limbaring, G.R. No. 161298, January 31, 2006, 481 SCRA 348.
- [47] Records, Vol. I, pp. 7-9, 54-62, Vol. II, pp. 482-486, 535-564, 567-653.
- [48] Heirs of Clemente Ermac v. Heirs of Vicente Ermac, 451 Phil. 368, 378 (2003).
- [49] Romago Electric Co., Inc. v. Court of Appeals, 388 Phil. 964, 976 (2000).
- [50] 471 Phil. 519 (2004).
- [51] *Id.* at 539.
- [52] Heirs of Clemente Ermac v. Heirs of Vicente Ermac, *supra* note 48 at 377.
- [53] G.R. No. 141145, November 12, 2004, 442 SCRA 342.
- [54] *Id.* at 359.
- [55] Rollo, pp. 42-43.
- [56] Oño v. Lim, G.R. No. 154270, March 9, 2010.
- [57] G.R. No. 164402, July 5, 2010.

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