

**SPOUSES MARIANO (A.K.A. QUAKY) AND EMMA BOLAÑOS,
PETITIONERS, VS. ROSCEF ZUÑIGA BERNARTE, CLARO ZUÑIGA,
PERFECTO ZUÑIGA, AND CEFERINA ZUÑIGA-GARCIA, RESPONDENTS.**

G.R. No. 180997. November 17, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This petition for review on certiorari[1] seeks to reverse and set aside the Decision dated March 30, 2007[2] and the Resolution dated November 26, 2007[3] of the Court of Appeals (CA) in CA-G.R. CV No. 84452.

The antecedents--

Subject of the controversy is a 238-square-meter lot, designated as Lot No. 1-P, and situated in Poblacion, Rapu-Rapu, Albay. Petitioner-spouses Mariano and Emma Bolaños (petitioner-spouses) purchased it from Cresencia Zuñiga-Echague (Cresencia) on June 20, 2001. The sale was registered in the name of petitioner-spouses before the Municipal Assessor's Office in Rapu-Rapu, Albay.

On October 30, 2001, respondents Roscef Zuñiga Bernarte, Claro Zuñiga, Perfecto Zuñiga, and Ceferina Zuñiga-Garcia (Roscef, et al.) filed a complaint[4] for declaration of partial nullity of deeds of transfer and sale with prayer for preliminary injunction against petitioner-spouses, Flavia Zuñiga (Flavia), and Cresencia before the Regional Trial Court (RTC) of Legazpi City, docketed as Civil Case No. 10033.

The complaint, in essence, alleged that: Roscef, et al., and Flavia and Cresencia are legitimate half-blood brothers and sisters, all children of the deceased Roman Zuñiga, Sr. (Roman) from his second and first marriages, respectively; during his lifetime, Roman owned a residential land with improvements, identified as Lot No. 1-P per Tax Declaration No. 99-001-01704[5] for the year 2000; Roman had the lot declared for taxation purposes in the name of Flavia, Sisters and Brothers, per a Sworn Statement[6] he executed in 1973, and filed with the then Assessor's Office, which issued Tax Declaration No. 2975;[7] Roman died on August 9, 1976, and his heirs did not settle or partition the subject property; on June 20, 2001, Flavia, without authority from the co-owners of the lot, executed a notarized Deed of Absolute Sale[8] over it in favor of Cresencia; Cresencia, in turn, also without authority from the said co-owners, executed on the same day a notarized Deed of Absolute Sale[9] in favor of petitioner-spouses; on the basis of these notarized deeds, Tax Declaration No. 99-001-01703[10] was issued to petitioner-spouses as sole declared owners of Lot No. 1-P.

In praying for preliminary injunction, Roscef, et al. further alleged that petitioner-spouses started demolishing their ancestral home on the subject property and initiated the construction of a new building thereon, despite pleas to desist from further destroying the ancestral home.

In her answer with cross-claim,[11] Flavia denied the genuineness and due execution of the Deed of Absolute Sale in favor of Cresencia, and alleged that the subsequent sale made by the latter was valid and effective only as to her aliquot share, but null and void as to the rest of the property. She also claimed that, during the confrontation

before the barangay, she informed Mariano of these facts and even admonished him not to destroy the existing house on Lot No. 1-P, nor to make any constructions thereon. She said that, despite this notice, petitioner-spouses, on August 15, 2001, forcibly entered her house and demolished a large portion of it.

In her own answer,[12] Cresencia denied the material allegations of the complaint, and alleged that Flavia was the sole owner of Lot No. 1-P, thus making her a buyer and seller in good faith and for value. Cresencia also averred that Roscef, et al., as children of Roman by his second wife, do not have any share in the subject property since Roman had already orally partitioned it during his lifetime.

For their part, petitioner-spouses alleged that the subject property was owned in common by Flavia, Cresencia, and their full-blood brothers and sisters only, and that, later on, Flavia acquired the entire lot. Flavia then sold it to Cresencia, who, in turn, sold it to petitioner-spouses. They asserted that they had acquired Lot No. 1-P in good faith and for value, without any knowledge of the adverse claim of Roscef, et al. or that the property did not fully belong to Cresencia.[13]

During the pre-trial, the parties admitted that Roscef, et al., Flavia and Cresencia are legitimate half brothers and sisters and the identities of the parties and of the subject property.[14]

Trial on the merits ensued. Thereafter, the RTC rendered its decision dated December 1, 2004,[15] disposing as follows--

WHEREFORE, Premises Considered, this Court renders judgment declaring that the property interest acquired by the spouses Mariano and Emma Bolaños over Lot No. 1-P - a 238-square-meter lot situated [o]n Salazar Street, Poblacion Rapu-Rapu, Albay - is limited only to the ideal shares belonging to Flavia A. Zuñiga and Cresencia Zuñiga-Echague constitutive of an ideal share equivalent to 2/11 portion of such lot, and hereby partially nullifying the two deeds of absolute sale both dated 20 June 2001 over Lot No. 1-P exceeding the ideal share of 1/11 for each one of the sellers Flavia A. Zuñiga and Cresencia Zuñiga-Echague. The defendants are hereby ordered to pay the plaintiffs the amounts of: a) 15,000 pesos as attorney's fees; and b) 10,000 pesos as litigation expenses. The defendants shall pay the costs of suit.

SO ORDERED.[16]

Aggrieved, petitioner-spouses interposed an appeal before the CA, ascribing error to the RTC in holding that the property was the capital of Roman and in declaring that the property interest acquired by them was limited only to the ideal shares of Flavia.

The CA denied the appeal, and affirmed in toto the RTC judgment. Hence, this petition anchored on the sole question of law of whether or not the CA wrongly applied the law on co-ownership, specifically Article 484,[17] relative to Article 980[18] of the Civil Code.

Petitioner-spouses argue that the CA gravely erred when it concluded that Lot No. 1-P is owned in common by the children from the first and second marriages of Roman. They posit that the brothers and sisters mentioned in Tax Declaration No. 2975 for December 14, 1948-1949 refer only to Roman's children from his first marriage, when the property was bequeathed to them by their father, then still a widower, and prior to the celebration of his marriage to Ceferina on October 18, 1954. They claim that Roman did so probably because the property belonged to the paraphernal property of his deceased first spouse Flavia. According to them, there was no credible evidence, not even a single document, to prove that the property originally belonged to Roman, but the RTC and the CA gave credit to Ceferina's testimony that she was told by her father, while at a tender age, that the property belonged to them. They contend, to the contrary, that the testimony of Josefina, a child from the first marriage, should be the one given credence due to her unbiased assertion that the property was purchased from the paraphernal assets of their mother Flavia, such that the lot had never been registered in the name of Roman

because he had no reason to claim it as his own.

We disagree. The assertions of petitioner-spouses cannot stand on the face of the evidence, both documentary and testimonial, presented before the RTC.

More specifically, petitioner-spouses' contention, i.e., that the subject property really belonged to Roman's first spouse Flavia as her paraphernal property, cannot be sustained. This position was anchored from the testimony of Josefina[19] that the lot was actually bought by her maternal grandfather and given to her mother Flavia. Josefina's declarations before the RTC do not deserve merit and weight, particularly in light of her statement that she was told so by her elders way back in 1923, when at that time she was only around three (3) years of age.[20] Besides, such a pronouncement was not supported by any proof, save for the lame excuse that the deed of sale showing the said transaction was allegedly lost and destroyed by a typhoon at a time when she was already married, claiming that she was then the custodian of the supposed document. Evidence, to be worthy of credit, must not only proceed from the mouth of a credible witness but must be credible in itself.[21] In other words, it must be natural, reasonable, and probable to warrant belief. The standard as to the truth of human testimony is its conformity to human knowledge, observation, and experience; the courts cannot heed otherwise.[22] Regretfully, petitioner-spouses' allegations do not measure up to the yardstick of verity.

The findings of the RTC, as concurred by the CA, are enlightening --

The facts of the case that appear of record to be without dispute follow, to wit: Roman Zuñiga, Sr. during his lifetime married twice. His first wife was Flavia while Ceferina became his second wife. Flavia died sometime in the year 1944 or 1945. Roman Sr. and Flavia begot seven children, namely: Josefina, Flavia, Woodrow, Pablo, Manuel, Roman, Jr. and Cresencia. On 18 October 1954, Roman Zuñiga, Sr. married Ceferina Bendaña (Exhibits "F," "6"). Roman, Sr. and Ceferina had four children, and they were the plaintiffs Roscef, Claro, Perfecto and Ceferina. Roman Zuñiga, Sr. died on 9 August 1976. It appears that his second wife Ceferina Bendaña died ahead of him. His eleven children by his first and by his second marriage survived him. In the face of the sworn statement he executed in the year 1973 he declared the lot in question (now Lot No. 1-P) then embraced by Tax Declaration No. 2975 as among the several properties that belonged to him (Exhibits "C," "3," in relation to Exhibits "A," "1"). Such lot under such tax declaration was declared for taxation purposes for the first time on 14 December 1948 in the name of Flavia A. Zuñiga, brothers and sisters (Exhibits "A," "1"). Flavia A. Zuñiga sold such 238-square-meter lot situated in Salazar St., Poblacion, Rapu-Rapu, Albay to her sister Cresencia Zuñiga-Echague on 20 June 2001 (Exhibits "D," "2"). On the same day Cresencia Zuñiga-Echague sold the same lot in favor of the spouses Mariano and Emma Bolaños (Exhibit "E").

Now, Roman Zuñiga, Sr.'s first wife Flavia passed away in the year 1944 or 1945. On 18 October 1954, he married his second wife Ceferina. Lot No. 1-P was declared for tax purposes for the first time on 14 December 1948 in the name of Flavia Zuñiga's sisters and brothers. The defendant Flavia A. Zuñiga admitted that her parents always declared the properties they acquired in her name - Flavia A. Zuñiga[,] sisters and brothers - since she was a 7-year-old lass. She never acquired the properties on her own - including Lot No. 1-P. She would always recognize her father Roman Zuñiga, Sr. as the actual owner of such lot when he was alive.

The reckoning date for the acquisition of Lot No. 1-P should be the date when it was declared for tax purposes in the name of the defendant Flavia A. Zuñiga, sisters and brothers - which is 14 December 1948 - notwithstanding the testimonies rendered that such lot was acquired while Roman Zuñiga, Sr. was married to Flavia - and even prior to such marriage. Such testimonies that are obviously easy to fabricate have no documentary evidence seen of record to sustain them. This Court finds Tax Declaration No. 2975 (Exhibit[s] "A," "1") that became effective in the year 1949 as the credible ancient documentary evidence that speaks of the true date Roman Zuñiga, Sr. acquired Lot No. 1-P. As earlier noted, his first wife died in the year 1944 or 1945 while he married his second wife on 18 October 1954. Obviously, Roman Zuñiga, Sr., while still a widower in the year 1948, acquired Lot No. 1-P. Clearly such lot was his capital property.

Roman Zuñiga, Sr. having passed away on 9 August 1976, Lot No. 1-P now forms part of his estate. Except for Lot No. 1-P, the record has not shown any other property left by Roman Zuñiga, Sr. at the time of his death. In the absence of whatever evidence that he executed a will his legitimate children by his first and second marriages inherit such lot in equal share[s] as intestate heirs (Article 980, The Civil Code). It follows that Lot No. 1-P has to be divided among them into eleven equal shares.

Until such time that Lot No. 1-P has been partitioned among Roman Zuñiga, Sr.'s eleven legitimate children, as co-owners being co-heirs their shares remain ideal (Article 1078, The Civil Code). Not one of the eleven children can claim as his or hers a specifically identified portion of Lot No. 1-P.

This Court finds Flavia Zuñiga's verbal claim that she never sold Lot No. 1-P to her sister Cresencia Zuñiga-Echague to be without merit. Not a shred of evidence appears of record showing that the signature appearing in the face of the deed of absolute sale was not Flavia A. Zuñiga's (Exhibits "D," "2"). At any rate, this Court holds that the written deed of absolute sale dated 20 June 2001 that Flavia A. Zuñiga signed is more credible evidence than her self-serving, uncorroborated and easy to concoct testimony that she never sold such lot to her sister Cresencia Zuñiga-Echague.

However, the above deed of absolute sale that Flavia A. Zuñiga executed was valid and effective only to the extent of her ideal share in Lot No. 1-P. The validity of the other deed of absolute sale Cresencia Zuñiga-Echague executed in favor of the spouses Mariano and Emma Bolaños is limited to her ideal share and the other ideal share she acquired from Flavia A. Zuñiga. In effect[,] the spouses Mariano and Emma Bolaños acquired the ideal shares of the sisters Flavia A. Zuñiga and Cresencia Zuñiga-Echague.

The claim by the spouses Mariano and Emma Bolaños that they were purchasers in good faith has little relevance. Lot No. 1-P appears as [an] unregistered lot, and thus they merely step into the shoes of the seller. They cannot acquire [a] property interest greater tha[n] Cresencia Zuñiga- Echague's.

Anyway, the spouses Mariano and Emma Bolaños acquired Lot No. 1-P from Cresencia Zuñiga-Echague on the very same day that Flavia A. Zuñiga sold it to Cresencia Zuñiga-Echague. The tax declaration over Lot No. 1-P at the time the spouses Mariano and Emma Bolaños acquired such lot speaks that its owners were Flavia A. Zuñiga, sisters and brothers (Exhibit "G"). Awareness by the spouses Mariano and Emma Bolaños of such tax declaration while they were buying Lot No. 1-P, they knew that Flavia A. Zuñiga was not the exclusive owner of Lot No. 1-P at the time they purchased it.[23]

Considering that Roman died on August 9, 1976, the provisions of the Civil Code on succession, then the law in force, should apply, particularly Articles 979 and 980, viz.--

Art. 979. Legitimate children and their descendants succeed the parents and other ascendants, without distinction as to sex or age, and even if they should come from different marriages. x x x.

Art. 980. The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares.

Thus, the RTC correctly ruled that Lot No. 1-P rightfully belongs to the 11 children of Roman, seven (7) from his first marriage with Flavia and four (4) from his second marriage with Ceferina, in equal shares. As there was no partition among Roman's children, the lot was owned by them in common. And inasmuch as Flavia did not successfully repudiate her sale of her aliquot share to Cresencia, the transfer stands as valid and effective. Consequently, what Cresencia sold to petitioner spouses was her own share and Flavia's share in the property that she acquired by virtue of the notarized deed of sale, which is only 2/11 of Lot No. 1-P. Therefore, the restitution of the property in excess of that portion by petitioner spouses is clearly warranted.

Indeed, the findings of the trial court, with respect to the operative facts and the credibility of witnesses, especially when affirmed by the appellate court, are accorded the highest degree of deference and respect by this

Court, except when: (1) the findings of a trial court are grounded entirely on speculations, surmises, or conjectures; (2) a lower court's inference from its factual findings is manifestly mistaken, absurd, or impossible; (3) there is grave abuse of discretion in the appreciation of facts; (4) the findings of the court go beyond the issues of the case or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (5) there is misapprehension of facts; and (6) the findings of fact are conclusions without mention of the specific evidence on which they are based are premised on the absence of evidence, or are contradicted by evidence on record.[24] Notably, none of these exceptions is attendant in this case.

WHEREFORE, the petition is DENIED. Accordingly, the Decision dated March 30, 2007 and the Resolution dated November 26, 2007 of the Court of Appeals in C.A. G.R. CV No. 84452 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 8-15.

[2] Penned by Associate Justice Renato C. Dacudao, with Associate Justices Noel G. Tijam and Sesinando E. Villon, concurring; id. at 16-27.

[3] Id. at 28.

[4] Records, pp. 1-7.

[5] Id. at 10.

[6] Id. at 8.

[7] Id. at 9.

[8] Id. at 11.

[9] Id. at 12.

[10] Id. at 13.

[11] Id. at 33-37.

[12] Id. at 43-45.

[13] Answer with Affirmative Defense and Counter Claim; id. at 47-49.

[14] Pre-Trial Order; id. at 81-83.

[15] Id. at 147-149.

[16] Id. at 149.

[17] Art. 484. There is co-ownership whenever the ownership of an undivided thing or right belongs to different persons.

In default of contracts, or of special provisions, co-ownership shall be governed by the provisions of this Title.

[18] Art. 980. The children of the deceased shall always inherit from him in their own right, dividing the

inheritance in equal shares.

[19] TSN, January 12, 2004, pp. 3-17.

[20] *Id.* at 6-7.

[21] *Boncalon v. Ombudsman (Visayas)*, G.R. No. 171812, December 24, 2008, 575 SCRA 449, 460.

[22] *Safeguard Security Agency, Inc. v. Tangco*, G.R. No. 165732, December 14, 2006, 511 SCRA 67, 84.

[23] *Rollo*, pp. 24-25.

[24] *People v. Estrada*, G.R. No. 178318, January 15, 2010, 610 SCRA 222, 231; *Benguet Corporation v. Cabildo*, G.R. No. 151402, August 22, 2008, 563 SCRA 25, 35-36.

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