

## **CONSOLACION D. ROMERO AND ROSARIO S.D. DOMINGO, PETITIONERS, VS. ENGRACIA D. SINGSON, RESPONDENT.**

*G.R. No. 200969. August 03, 2015*

Ponente: DEL CASTILLO, J.

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### **DEL CASTILLO, J.:**

This Petition for Review on Certiorari[1] seeks to set aside the February 29, 2012 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 114363 which granted herein respondent's Petition for Review, reversed the December 11, 2009 Order[3] of the Regional Trial Court of Pasig City, Branch 160 (RTC) in SCA No. 3144, and reinstated the said RTC's April 29, 2009 Decision.[4]

#### **Factual Antecedents**

The parties herein - petitioners Consolacion Domingo Romero and Rosario S.D. Domingo and respondent Engracia Domingo Singson - are siblings. Their parents, Macario and Felicidad Domingo, own a 223-square meter piece of property (the subject property) located at 127 F. Sevilla Street, San Juan City, Metro Manila covered by Transfer Certificate of Title No. (32600) (23937) 845-R[5] (TCT 845-R) which was issued in 1953. It appears that petitioners and other siblings, Rafael and Ramon Domingo, are the actual occupants of the subject property, having stayed there with their parents since birth. On the other hand, respondent took up residence in Mandaluyong City after getting married.

On February 22, 1981, Macario passed away, while Felicidad died on September 14, 1997.[6]

On June 7, 2006, TCT 845-R was cancelled and a new certificate of title -Transfer Certificate of Title No. 12575-R[7] or 12575[8] (TCT 12575) - was issued in respondent's name, by virtue of a notarized "Absolute Deed of Sale"[9] ostensibly executed on June 6, 2006 by and between Macario and Felicidad - as sellers, and respondent - as buyer. And this despite the fact that Macario and Felicidad were then already deceased.

Soon thereafter, respondent sent letters to her siblings demanding that they vacate the subject property, under pain of litigation.

Petitioners and their other siblings just as soon filed a Complaint[10] against respondent and the Register of Deeds of San Juan City for annulment and cancellation of TCT 12575 and the June 6, 2006 deed of sale, reconveyance, and damages, on the claim that the deed of sale is a forgery and that as heirs of Macario and Felicidad, the true owners of the subject property, they were entitled to a reconveyance of the same. The case was docketed as Civil Case No. 70898-SJ and assigned to Branch 160 of the RTC of Pasig City.

#### **Ruling of the Metropolitan Trial Court (MeTC)**

On September 26, 2006, respondent filed an unlawful detainer suit against petitioners and her brothers Rafael and Ramon before the MeTC of San Juan City. Docketed as Civil Case No. 9534 and assigned to MeTC Branch 58, respondent in her Complaint[11] sought to evict her siblings from the subject property on the claim that she is the

owner of the same; that her siblings' stay therein was merely tolerated; and that she now needed the premises to serve as her daughters' residence. Thus, she prayed that her siblings be ordered to vacate the premises and pay monthly rent of P2,000.00 from date of demand until they vacate the premises, as well as attorney's fees and costs of suit.

In their Answer,[12] petitioners prayed for dismissal, claiming that the June 6, 2006 deed of sale was a forgery, and no certificate of title in her name could be issued; that they thus remained co-owners of the subject property, and respondent had no right to evict them; and that the pendency of Civil Case No. 70898-SJ bars the ejectment suit against them.

After proceedings or on September 17, 2007, the MeTC rendered a Decision,[13] decreeing as follows:

Anent the first issue of jurisdiction, the Court answers in the affirmative xxx.

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From the above-quoted verse, the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts have the exclusive original jurisdiction over this case. Moreover, in the case of *Hilario vs. Court of Appeals*, (260 SCRA 420,426 citing: *Refugia, Et al[.] vs. Court of Appeals, Et al[.]*, G.R. No. 118284, July 4, 1996) the Supreme Court held: 'xxx inferior courts retain jurisdiction over ejectment cases even if the question of possession cannot be resolved without passing upon the issue of ownership; but this is subject to the caveat that the issue raised as to ownership be resolved by the Trial Court for the sole purpose of determining the issue of possession x x x.' Thus, even where the defendants assert in their Answer, ownership of or Title to the property, the inferior Court is not deprived of its jurisdiction, xxx

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As to the second issue as to whether or not plaintiff may validly eject the defendants, again this Court answers in the affirmative, since the plaintiff is a holder of a Torrens Title which is a right in rem. The defendants in their defense that they have filed a case before the Regional Trial Court questioning the Title of the plaintiff is their right and prerogative, unless however restrained by higher court, this Court will proceed as mandated by law and jurisprudence. This action for unlawful detainer is sanctioned by Rule 70 of the 1997 Rules of Civil Procedure which provides:

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While the defendants claim that their parents are still the owner[s] of the subject property in litigation and during their lifetime have not awarded nor alienated said property to anybody, why then has plaintiff the Title of said property? If it was secured fraudulently, the same is of no moment since it has its own forum to address to [sic]. Moreover, the pendency of an action questioning the ownership of the property does not bar the filing or consideration of an ejectment suit nor the execution of the judgment therein xxx. As correctly pointed out by the plaintiff, 'ownership may be exercised over things or rights,' Art. 427 of the New Civil Code. Likewise, Art. 428 of the same code provides that: 'the owner has the right to enjoy and dispose of a thing, without other limitations than those established by law. The owner has also a right of action against the holder and possessor of the thing in order to recover it.' Further, Art. 434 states that 'in an action to recover, the property must be identified, and the plaintiff must rely on the strength of his Title and not on the weakness of the defendant's claim.' The defendants therefore can be validly ejected from the premises in question since this is not accion publiciana as claimed by the defendants.

Finally, on the third issue of damages and the side issue of reasonable compensation for the use of the subject premises, the Supreme Court in the case of *Balanon-Anicete vs. Balano*, 402 SCRA 514 held: 'xxx persons who occupy the land of another at the latter's tolerance or permission without any contract between them [are] necessarily bound by an implied promise that they will vacate the same upon demand, failing in which a

summary action for ejectment is the proper remedy against them.' Hence, upon demand, plaintiff is entitled to collect reasonable compensation for the actual occupation of the subject property which is P2,000.00 per month and the payment of attorney's fees. Since no evidence was presented relative to damages, the Court cannot award the same.

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering the defendants and all persons claiming rights under them to vacate the subject property known as No. 127 F. Sevilla St., San Juan, Metro Manila and to surrender peaceful possession thereof to the plaintiff in this case;
2. Ordering the defendants to pay plaintiff the amount of P2,000.00 per month for the actual use and occupation of the subject property reckoned from date of extrajudicial demand which is August 7, 2006, until defendants shall have finally vacated the premises;
3. Ordering the defendants to pay plaintiff the amount of P10,000.00 as and by way of attorney's fees; and
4. The costs of suit.

SO ORDERED.[14]

#### Ruling of the Regional Trial Court

In an appeal before the RTC docketed as SCA Case No. 3144, petitioners and their co-defendants argued that the MeTC erred in not resolving the issue of ownership, in ordering them to vacate the premises, in deciding issues which were not framed by the parties, and in not granting them damages and awarding the same instead to respondent.

On April, 29, 2009, the RTC rendered its Decision,[15] pronouncing as follows:

Stripped of its non-essentials, the appeal primarily hinges on the lower court's failure to rule upon the issue on the validity of Transfer Certificate of Title No. 12575 of the lot, subject of the ejectment suit.

Upon a judicious consideration of the arguments raised by the parties in their respective memorandum vis-a-vis the decision of the court a quo, this court opines and so holds that the said court did not err in its findings. The validity of a transfer certificate of title cannot be raised in the said ejectment suit as it partakes of a collateral attack against the said title. This is not allowed under the principle of indefeasibility of a Torrens title. The issue on the validity of title i.e., whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose.

The ruling of the Supreme Court in the case of Raymundo and Perla De Guzman vs. Praxides J. Agbagala, G.R. No. 163566, February 19, 2008 is revelatory, thus:

'Indeed, a decree of registration or patent and the certificate of title issued pursuant thereto may be attacked on the ground of falsification or fraud within one year from the date of their issuance. Such an attack must be direct and not by a collateral proceeding. The rationale is this:

xxx [The] public should be able to rely on the registered title. The Torrens System was adopted in this country because it was believed to be the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.'

For reasons aforestated, the appeal is hereby DENIED.

WHEREFORE, premises considered, judgment is hereby rendered affirming in toto in [sic] the decision of the lower court dated September 17, 2007.

With costs against the appellant.

### **SO ORDERED.[16]**

On motion for reconsideration, however, the RTC reversed itself. Thus, in a December 11, 2009 Order,[17] it held that -

#### **2. This Court's Findings**

At the outset, it should be mentioned that the court a quo should have dismissed the complaint outright for failure to comply with a condition precedent under Section 10, Rule 16 of the Rules of Civil Procedure, the parties being siblings and there being no allegations in the complaint as regards efforts at compromise having been exerted, a matter that was raised in the answer of defendants Consolacion Romero and Rosario D. Domingo.

##### **2.1. The Issue of MeTC Jurisdiction**

The court a quo is correct in ruling that it has jurisdiction over this case, the allegations in the complaint being so phrased as to present one apparently for unlawful detainer. It did not matter that after answers were filed and further proceedings were had, what emerged were issues of ownership and possession being intricately interwoven, the court being clothed with jurisdiction to provisionally adjudicate the issue of ownership, it being necessary in resolving the question of possession.

##### **2.2. The Issue of Whether or Not Plaintiff Can Eject Defendants**

In *Barnachea vs. Court of Appeals, et al.*, it was held that one of the features of an unlawful detainer case is possession of property by defendant being at the start legal, becoming illegal by reason of the termination of right to possess based on his contract or other arrangement with plaintiff.

In this case, the legal possession of subject premises by defendants-appellants, they being the heirs of original owners Macario and Felicidad Domingo, has not ceased. The basis for the claimed ownership by plaintiff-appellee is a deed of absolute sale dated 06 June 2006 (Exhibit "2") showing the signatures of vendor Sps. Domingo whose respective death certificates indicate that Macario died on 22 February 1981 and Felicidad on 14 September 1997. It is clear that the deed of sale became the basis for the transfer of subject property in plaintiff-appellee's name under TCT No. 12575 (Exhibit "A"), a fact that prompted herein defendants-appellants to file a complaint for annulment of sale and reconveyance of ownership, docketed as Civil Case No. 70898-SJ earlier than this subject case.

It appearing that defendants-appellants' occupancy of subject property is premised on their right thereto as co-owners, being compulsory heirs of their parents, and it not being established that they had alienated such right in favor of their sister, herein plaintiff-appellee, the latter cannot eject them therefrom.

##### **2.3. The Issue of Whether or Not Defendants are Entitled to Damages**

While defendants Rafael and Ramon Domingo allege and pray for actual and moral damages and attorney's fees in their answer and all [the] defendants do so in their position paper, the court can award only the last, it being established that they were compelled to litigate to protect their right, and such award being just and equitable. As for actual and moral damages, there is no sufficient basis for a grant thereof. It is noted that not a single affidavit of any of the four defendants is attached to their position paper, as required under Section 10, Rule 70, Rules of Civil Procedure, and Section 9, Revised Rule on Summary Procedure.

WHEREFORE, the foregoing considered, the court hereby grants the motion for reconsideration of its decision on appeal affirming in toto the decision of the Metropolitan Trial Court, Branch 58, San Juan City. Consequently, it hereby reverses said decision by decreeing that plaintiff-appellee has no cause of action

against herein defendants-appellants who are entitled to possession of the subject premises, rendering the complaint dismissible and hereby dismisses it. Corrolarily, plaintiff-appellee's motion for execution is hereby denied. Plaintiff-appellee is hereby ordered to pay defendants-appellants P8,000.00 each in attorney's fees. Costs against plaintiff-appellee.

SO ORDERED.[18]

Respondent filed a Motion for Reconsideration,[19] which the RTC denied in a subsequent Order[20] dated May 17, 2010. The trial court held:

In essence, plaintiff argues that possession and not ownership should have been the central issue in this appealed ejectment suit. As the subject property is titled in plaintiffs name, necessarily, she has better right of possession than defendants.

The court is not persuaded. Germane is Section 16, Rule 70 of the 1997 Rules of Civil Procedure, to wit: Section 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

Having determined the ownership issue in resolving defendants' right of possession pursuant to the aforestated rule, the court hereby finds no cogent reason or sufficient justification to reconsider its previous ruling dated 11 December 2009.

WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.

**SO ORDERED.[21]**

Ruling of the Court of Appeals

Respondent filed a Petition for Review[22] with the CA, docketed as CA-G.R. SP No. 114363. On February 29, 2012, the CA rendered judgment, as follows:

Petitioner seeks to reverse and set aside the assailed Orders since the RTC allegedly erred:  
'I.

IN RULING THAT THE RESPONDENTS CANNOT BE EJECTED FROM THE SUBJECT PREMISES, THEIR OCCUPANCY BEING PREMISED ON THEIR RIGHT AS CO-OWNERS, BEING COMPULSORY HEIRS OF THEIR [PETITIONER] PARENTS AND IT NOT BEING ESTABLISHED THAT THEY HAD ALIENATED SUCH RIGHT IN FAVOR OF THE PETITIONER.

II.

IN RULING THAT THE RESPONDENTS ARE ENTITLED TO THE AWARD OF ATTORNEY'S FEES.'

This Court's Ruling

Contending that the RTC erred when it held that respondents cannot be ejected from the subject lot because they are co-owners thereof and heirs of their deceased parents, petitioner points out that the only issue that should be tackled in an unlawful detainer case is the right of a plaintiff to possession de facto over the property in question.

For their part, respondents argue that they have legal and actual possession of the subject lot as they are the heirs of their deceased parents who are the registered owners of said subject lot. On the other hand, the title to the subject lot that was registered under petitioner's name is null and void for it was issued based on a forged deed of absolute sale.

The petition has merit.

In an unlawful detainer case, the defendant's possession of a property becomes illegal when he is demanded by the plaintiff to vacate therefrom due to the expiration or termination of his right to possess the same under the contract but the defendant refuses to heed such demand. Thus, the sole issue to be resolved is who between the parties have [sic] a right to the physical or material possession of the property involved, independently of any claim of ownership by any of the parties.

However, where the issue of ownership is raised by any of the parties, the rule in Sec. 16, Rule 70 of the Revised Rules of Court is explicit:

Section 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

In other words, while only possession de facto is the issue to be determined in an ejectment case, the issue of ownership may be tackled if raised by any of the parties and only for the purpose of reaching a conclusion on the issue of possession. Thus, in *Esmaguél vs. Coprada*, the Supreme Court had the occasion to once again hold that:

'The sole issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. Where the issue of ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property. The adjudication is, however, merely provisional and would not bar or prejudice an action between the same parties involving title to the property. Since the issue of ownership was raised in the unlawful detainer case, its resolution boils down to which of the parties' respective evidence deserves more weight.'

In the case at bar, both petitioner and respondents are claiming ownership over the subject lot. On the part of petitioner, she maintains that she has a right to possession because she is the registered owner thereof, as evidenced by TCT No. 12575-R which was issued in her name in 2006. On the other hand, respondents maintain that they cannot be ejected from the subject lot because they are the compulsory heirs of their deceased parents under whose names the subject lot was registered, as shown in TCT No. 845-R.

As between the two parties, this Court rules in favor of petitioner for she holds a more recently-issued certificate of title, i.e., 2006, than that of their deceased parents whose certificate of title was issued in 1953. The issuance of the certificate of title in 2006 may be traced from TCT No. 845-R wherein at the last page of its Memorandum of [E]ncumbrances is an entry which explicitly states that the title was transferred to the name of petitioner on June 6, 2006 for a consideration of Php1,000,000.00. Clearly, the certificate of title of the deceased parents was effectively cancelled in favor of petitioner. Hence, petitioner has a better right to the possession de facto of the subject lot for, as held in *Asuncion Urieta Vda. de Aguilar vs. Alfaro*, 'the titleholder is entitled to all the attributes of ownership of the property, including possession.'

Respondents' insistence that the Torrens Certificate of petitioner should not be given any probative weight because it is null and void is of no moment. The validity of a certificate of title cannot be collaterally attacked. Rather, the attack should be made in an action instituted mainly for that purpose, x x x

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In short, a Torrens Certificate is evidence of the indefeasibility of the title to the property and the person whose name appears therein is entitled to the possession of the property unless and until his title is nullified. The reason being that the Torrens System was adopted as it is the most effective measure that will guarantee the integrity of land titles and protect their indefeasibility once the claim of ownership is established and recognized. Hence, the

age-old rule that 'the person who has a Torrens Title over a land is entitled to possession thereof.'

Unless there is already a judgment declaring petitioner's certificate of title as null and void, the presumption of its validity must prevail, x x x

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All said, petitioner's right to possession over the subject lot must be respected in view of the certificate of title thereto issued in her name.

WHEREFORE, the petition is GRANTED. The assailed Orders of the Regional Trial Court, Pasig City, Branch 160 are REVERSED and SET ASIDE. Its Decision dated April 29, 2009 affirming the Decision dated September 17, 2007 of the Metropolitan Trial Court, San Juan City, Branch 58 is REINSTATED.

### **SO ORDERED.[23]**

Hence, the instant Petition.

In a July 10, 2013 Resolution,[24] this Court resolved to give due course to the Petition.

#### **Issues**

Petitioners raise the following issues for resolution:

A

THE COURT OF APPEALS (TWELFTH DIVISION) OBVIOUSLY ERRED IN FAILING TO DISMISS THE COMPLAINT (ANNEX H) BECAUSE IT DID NOT COMPLY WITH THE JURISDICTIONAL ELEMENT REQUIRED BY LAW (SEC. 3, RULE 8, REVISED RULE OF COURT).

B

THE DECISION GRAVELY ERRED IN NOT HAVING RULED THAT RESPONDENT'S CAUSE OF ACTION IN HER EJECTMENT COMPLAINT (ANNEX H) IS INDISPENSABLY INTERTWINED WITH THE ISSUE OF OWNERSHIP RAISED BY PETITIONERS' DEFENSE, THUS RENDERING SAID COMPLAINT NOT AN UNLAWFUL DETAINER CASE OVER WHICH THE MeTC HAS JURISDICTION, AS DECIDED IN THE ORDER DATED DECEMBER 9, 2009 (ANNEX X).

C

THE DECISION IS SERIOUSLY MISTAKEN IN NOT HAVING UPHELD THE AWARD OF DAMAGES BY JUDGE MYRNA Y. LM-VERANO IN FAVOR OF DEFENDANTS AND AGAINST RESPONDENT WHO OBVIOUSLY OBTAINED HER TITLE (ANNEX F) USING AN UNDISPUTABLY FRAUDULENT DEED OF ABSOLUTE SALE (ANNEX G).

D

THE DECISION INCORRECTLY RULED THAT PETITIONERS IN RAISING OWNERSHIP AS THEIR DEFENSE (SEC. 16 IN RELATION TO SEC. 18, RULE 70, REVISED RULES OF COURT) CONSTITUTE A COLLATERAL ATTACK ON THE TITLE OF RESPONDENT OBVIOUSLY AND UNDENIABLY PROCURED THRU FRAUD.[25]

#### **Petitioners' Arguments**

In their Petition and Reply[26] seeking reversal of the assailed CA dispositions and reinstatement of the RTC's December 11, 2009 Order dismissing respondent's ejectment case, petitioners essentially argue that since the

parties to the case are siblings and no attempt at compromise was made by the respondent prior to the filing of Civil Case No. 9534, then it should be dismissed for failure to comply with Rule 16, Section 1(j) of the 1997 Rules of Civil Procedure[27] in relation to Article 151 of the Family Code[28] and Article 222 of the Civil Code;[29] that they could not be evicted from the subject property since they are co-owners of the same, having inherited it from their deceased parents; that respondent's title was derived from a forged deed of sale, which does not make her the sole owner of the subject property; that as co-owners and since respondent's title is void, they have a right of possession over the subject property and they may not be evicted therefrom; that their defense that respondent obtained her title through a forged deed of sale does not constitute a collateral attack on such title, but is allowed in order to prove their legal right of possession and ownership over the subject property.

#### Respondent's Arguments

In her Comment[30] seeking denial of the Petition, respondent claims that the Petition should have been dismissed since only two of the respondents in CA-G.R. SP No. 114363 filed the Petition before this Court; that the findings of the CA do not merit review and modification, the same being correct; and that the Petition is a mere reiteration of issues and arguments already passed upon exhaustively below.

#### Our Ruling

The Court grants the Petition.

The procedural issue of lack of attempts at compromise should be resolved in respondent's favor. True, no suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made. However, the failure of a party to comply with this condition precedent is not a jurisdictional defect. If the opposing party fails to raise such defect in a motion to dismiss, such defect is deemed waived.[31]

In arriving at its pronouncement, the CA passed upon the issue or claim of ownership, which both parties raised. While the procedure taken is allowed -under Section 16, Rule 70 of the 1997 Rules of Civil Procedure,[32] the issue of ownership may be resolved only to determine the issue of possession - the CA nonetheless committed serious and patent error in concluding that based solely on respondent's TCT 12575 issued in her name, she must be considered the singular owner of the subject property and thus entitled to possession thereof- pursuant to the principle that "the person who has a Torrens Title over a land is entitled to possession thereof." [33] Such provisional determination of ownership should have been resolved in petitioners' favor.

When the deed of sale in favor of respondent was purportedly executed by the parties thereto and notarized on June 6, 2006, it is perfectly obvious that the signatures of the vendors therein, Macario and Felicidad, were forged. They could not have signed the same, because both were by then long deceased: Macario died on February 22, 1981, while Felicidad passed away on September 14, 1997. This makes the June 6, 2006 deed of sale null and void; being so, it is "equivalent to nothing; it produces no civil effect; and it does not create, modify or extinguish a juridical relation." [34]

And while it is true that respondent has in her favor a Torrens title over the subject property, she nonetheless acquired no right or title in her favor by virtue of the null and void June 6, 2006 deed. "Verily, when the instrument presented is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the assignee in the forged deed acquire any right or title to the property." [35]

In sum, the fact that respondent has in her favor a certificate of title is of no moment; her title cannot be used to validate the forgery or cure the void sale. As has been held in the past:

Insofar as a person who fraudulently obtained a property is concerned, the registration of the property in said person's name would not be sufficient to vest in him or her the title to the property. A certificate of title merely confirms or records title already existing and vested. The indefeasibility of the Torrens title should not be used as a means to perpetrate fraud against the rightful owner of real property. Good faith must concur with registration because, otherwise, registration would be an exercise in futility. A Torrens title does not furnish a shield for fraud, notwithstanding the long-standing rule that registration is a constructive notice of title binding upon the whole world. The legal principle is that if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee.[36] (Emphasis supplied)

Since respondent acquired no right over the subject property, the same remained in the name of the original registered owners, Macario and Felicidad. Being heirs of the owners, petitioners and respondent thus became, and remain co-owners - by succession - of the subject property. As such, petitioners may exercise all attributes of ownership over the same, including possession - whether de facto or de jure; respondent thus has no right to exclude them from this right through an action for ejectment.

With the Court's determination that respondent's title is null and void, the matter of direct or collateral attack is a foregone conclusion as well. "An action to declare the nullity of a void title does not prescribe and is susceptible to direct, as well as to collateral, attack;"[37] petitioners were not precluded from questioning the validity of respondent's title in the ejectment case.

It does not appear either that petitioners are claiming exclusive ownership or possession of the subject property. Quite the contrary, they acknowledge all this time that the property belongs to all the Domingo siblings in co-ownership. In the absence of an allegation - or evidence - that petitioners are claiming exclusive ownership over the co-owned property, respondent has no alternative cause of action for ejectment which should prevent the dismissal of Civil Case No. 9534. The pronouncement in a previous case applies here:

True it is that under Article 487 of the Civil Code,[38] a co-owner may bring an action for ejectment against a co-owner who takes exclusive possession and asserts exclusive ownership of a common property. It bears stressing, however, that in this case, evidence is totally wanting to establish John's or Juliet's exclusive ownership of the property in question. Neither did Juliet obtain possession thereof by virtue of a contract, express or implied, or thru intimidation, threat, strategy or stealth. As borne by the record, Juliet was in possession of the subject structure and the sari-sari store thereat by virtue of her being a co-owner thereof. As such, she is as much entitled to enjoy its possession and ownership as John.[39]

Indeed, it is respondent who is claiming exclusive ownership of the subject property owned in common.

Thus, left with no cause of action for ejectment against petitioners, respondent's ejectment case must be dismissed.

There is likewise no merit to respondent's argument that since only two of the defendants in the ejectment case filed the instant Petition, the same must necessarily be dismissed. There is no rule which requires that all the parties in the proceedings before the CA must jointly take recourse with this Court or else such recourse would be dismissible. The fact that Ramon and Rafael did not join in the instant Petition does not bar petitioners from pursuing their case before this Court. Moreover, since petitioners, Ramon and Rafael are siblings, co-heirs, co-owners, and occupants of the subject property, they all have common interests, and their rights and liabilities are identical and so interwoven and dependent as to be inseparable. The reversal of the assailed CA judgment should therefore inure to the benefit of Ramon and Rafael as well. The December 11, 2009 Order of the RTC — decreeing dismissal as against petitioners, Ramon, and Rafael, as well as the payment of attorney's fees to all of them - may be reinstated in all respects.

xxx This Court has always recognized the general rule that in appellate proceedings, the reversal of the

judgment on appeal is binding only on the parties in the appealed case and does not affect or inure to the benefit of those who did not join or were not made parties to the appeal. An exception to the rule exists, however, where a judgment cannot be reversed as to the party appealing without affecting the rights of his co-debtor, or where the rights and liabilities of the parties are so interwoven and dependent on each other as to be inseparable, in which case a reversal as to one operates as a reversal as to all. This exception, which is based on a communality of interest of said parties, is recognized in this jurisdiction. x x x[40]

WHEREFORE, the Petition is GRANTED. The February 29, 2012 Decision of the Court of Appeals in CA-G.R. SP No. 114363 is REVERSED and SET ASIDE. The December 11, 2009 Order of the Regional Trial Court of Pasig City, Branch 160 in SCA No. 3144 is REINSTATED and AFFIRMED.

**SO ORDERED.**

Carpio, (Chairperson), Brion, Mendoza, and Leonen, JJ., concur.

[1] Rollo, pp. 8-44.

[2] Id. at 46-57; permed by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Francisco P. Acosta and Angelita A. Gacutan.

[3] Id. at 270-273; penned by Judge Myrna V. Lim-Verano.

[4] Id. at 228-229; penned by Judge Amelia A. Fabros.

[5] Id. at 62-64.

[6] Id at 65-66.

[7] Id. at 67-68.

[8] Id. at 76-77.

[9] Id. at 69-71.

[10] Id. at 110-115; later Amended Complaint, at 132-138.

[11] Id. at 73-75.

[12] Id. at 86-89.

[13] Id. at 180-189; penned by Judge Marianito C. Santos.

[14] Id. at 186-188.

[15] Id. at 228-229.

[16] Id.

[17] Id. at 270-273.

[18] Id. at 271-273.

[19] Id. at 274-281.

[20] Id. at 293.

[21] Id.

[22] Id. at 295-307.

[23] Id. at 51-57.

[24] Id. at 740-741.

[25] Id. at 26.

[26] Id. at 369-383.

[27] On Motion to Dismiss.

Section 1. Grounds. Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

xxxx

(j) That a condition precedent for filing the claim has not been complied with.

[28] Art. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the same case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

[29] Art. 222. No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward a compromise have been made, but that the same have failed, subject to the limitations in Article 2035.

[30] Rollo, pp. 342-346.

[31] *Tribiana v. Tribiana*, 481 Phil. 539, 547 (2004).

[32] On Forcible Entry and Unlawful Detainer.

Sec. 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

[33] Rollo, p. 55; citing *Cana v. Evangelical Free Church of the Philippines*, 568 Phil. 205 (2008).

[34] *Borromeo v. Mina*, G.R. No. 193747, June 5, 2013, 697 SCRA 516, 528.

[35] *Heirs of Victorino Sarili v. Lagrosa*, G.R. No. 193517, January 15, 2014, 713 SCRA 726, 739-740, citing *Spouses Bernales v. Heirs of Julian Sambaan*, 624 Phil. 88 (2010).

[36] *Spouses Reyes v. Montemayor*, 614 Phil. 256, 274-275 (2009).

[37] *Spouses De Guzman v. Agbagala*, 569 Phil. 607, 614 (2008).

[38] Art. 487. Any one of the co-owners may bring an action in ejectment.

[39] *Abing v. Waeyan*, 529 Phil. 199, 207 (2006).

[40] *First Leverage and Services Group, Inc. v. Solid Builders, Inc.*, G.R. No. 155680, July 2, 2012, 675 SCRA 407, 422.

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