

**ANDREA CORDOVA VDA. DE GUTIERREZ (DECEASED), NOW
REPRESENTED BY RITA C. MEJIA (EXECUTRIX), PETITIONER, VS.
INTERMEDIATE APPELLATE COURT, LINO B. GUTIERREZ, ROSARIO
B. GUTIERREZ,...**

G.R. No. 68989. January 28, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This is a petition for review of a decision of the Intermediate Appellate Court (IAC) in AC-G.R. No. 59915 dated March 30, 1984 and its resolution of October 12, 1984 denying the motion for reconsideration filed by petitioner of said decision.[*]

On September 12, 1947 petitioner who was then a widow purchased the questioned property from Quirico Abeto, known as the Novaliches property, for the sum of P25,000.00 by virtue of a deed of absolute sale.[1] After the property was registered Transfer Certificate of Title (TCT No. 5779 was issued in the name of petitioner by the Register of Deeds of Caloocan City.

On the same date, September 12, 1947, petitioner mortgaged the same property to Abeto for the sum of P15,000.00[2] The property was duly registered in the name of petitioner in the Real Property Tax Register of Caloocan City.[3]

On July 1, 1951, petitioner and Lino Gutierrez, a widower, were married. Gutierrez died on October 3, 1962. No children was born out of their marriage. The intestate estate of Gutierrez was judicially settled in Special Proceeding No. Q-6832 of the Court of First Instance of Rizal, Branch 16, Quezon City, wherein in the inventory said Novaliches property was included. In a compromise Agreement submitted to the court the four children of Lino Gutierrez participated and admitted that said property was the paraphernal property of the petitioner.[4] On February 13, 1964, the trial court rendered a decision approving the compromise agreement and enjoining the parties to abide by the terms and conditions embodied therein.[5]

However, on October 29, 1964, private respondents Gutierrez caused the annotation of their affidavit of adverse claim at the back of TCT No. 5779 of the Register of Deed of Caloocan City covering said property. In the meanwhile, petitioner subdivided the said property into five (5) parcels now covered by TCT Nos. 7123 to 7127 carrying over the adverse claim of respondents Gutierrez.

On December 4, 1964 said eight (8) respondents Gutierrez filed an amended complaint in the Court of First Instance of Rizal "for a declaration of a trust and to quiet title" claiming to be the beneficiaries of said property that was allegedly purchased by the late Lino Gutierrez and that petitioner was a mere trustee of said property in behalf of 18 persons including said respondents. Respondent Nicolas Manalac intervened as one of the alleged beneficiaries.

In due course and after trial on the merits a decision was rendered by the trial court on February 16, 1976, the

dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered dismissing the plaintiffs' amended Complaint and the complaint in intervention, and ordering the Register of Deeds of Caloocan City to cancel the annotation of the affidavit of adverse claim at the back of Transfer Certificate of Title No. 5779 and all subsequent titles issued thereafter, covering the Novaliches property involved in this case, containing a total area of 250,075 square meters, more or less. On the defendant's counterclaim against plaintiffs, plaintiffs are hereby ordered, to pay, jointly and severally, the defendant the amount of P10,000.00 as and for attorney's fees. On the defendant's counterclaim against the intervenor is hereby ordered to pay the defendant the amount of P5,000.00 as and for attorney's fees. Plaintiffs and intervenor are hereby further ordered to pay proportionately the costs of suit.

Defendant's claim for damages against plaintiffs and intervenor is hereby denied for not having been substantiated."

Private respondents interposed an appeal to the Intermediate Appellate Court (IAC) wherein after the issues were joined a decision was rendered on March 30, 1984, the dispositive part of which reads as follows:

"WHEREFORE, the decision appealed from is hereby MODIFIED by declaring defendant-appellee as a mere trustee for the plaintiffs-appellants and the intervenor-appellant of the said 9/18 portion of the parcels of land described in the above-mentioned titles, and the said titles are hereby ordered to be cleared and quieted by the registration of the 9/18 share in the names of the eight (8) plaintiffs-appellants and the intervenor-appellant in each of said parcels of land.

There being no clear evidence established thereof, the claim for damages by either of the parties are dismissed.

No pronouncement as to costs."

A motion for reconsideration of said decision filed by the petitioner was denied in a resolution of October 12, 1984.

Hence this petition, wherein it is alleged that the decision of respondent court was not in accordance with law and the applicable decisions of this Court. The issues raised are:

"QUESTIONS OF LAW

I. THE RESPONDENT INTERMEDIATE APPELLATE COURT ERRED IN COMPLETELY DISREGARDING THE PUBLIC DOCUMENTS OF RECORD, PARTICULARLY THE DEED OF ABSOLUTE SALE (EXH. B; EXH. 7), THE DEED OF MORTGAGE (EXH. C; OR EXH. 8) AND THE REAL PROPERTY TAX REGISTER OF CALOOCAN CITY (EXH. N; OR EXH. 9), WHICH CLEARLY ESTABLISHED THE FACT THAT CORDOVA (NOW DECEASED) HAD PURCHASED WITH HER OWN EXCLUSIVE FUNDS THE NOVALICHES PROPERTY, FORMERLY COVERED BY TCT NO. 5779 OF THE REGISTRY OF DEEDS OF CALOOCAN CITY;

I.1. THE DECISION OF SAID RESPONDENT COURT ERRED IN DISREGARDING THE JUDICIAL RECORDS IN SP. PROC. NO. Q-6832, CFI OF RIZAL, QUEZON CITY BRANCH IX, PARTICULARLY THE COMPROMISE AGREEMENT (EXH. 2), WHICH CAN NOT BE CONTRADICTED AS JUDICIAL ADMISSION (RULE 129, SEC. 2), AND THE DECISION (EXH. 3) APPROVING SAID COMPROMISE AGREEMENT WHICH IS FINAL AND CONCLUSIVE (RULE 131, SEC. 3, PAR. C);

II. THE RESPONDENT COURT ERRONEOUSLY RELIED ON THE FALSE TESTIMONY OF WITNESS ANTONIO GUTIERREZ, WHO SIGNED THE COMPROMISE AGREEMENT (EXH. 2) IN SP. PROC. NO. Q-6832, CFI OF RIZAL, QUEZON CITY BRANCH IX, AND EXPRESSLY ADMITTED THAT THE NOVALICHES PROPERTY IS THE EXCLUSIVE PARAPHERNAL PROPERTY OF CORDOVA;

III. THE RESPONDENT COURT ERRED IN REVERSING THE CORRECT FINDINGS OF FACT AND RULINGS CAREFULLY MADE BY THE TRIAL COURT WITHOUT ANY COMPELLING REASON FOR THEIR REVERSAL, AND ERRONEOUSLY RELIED ON AND COPIED THE BRIEF FOR RESPONDENTS GUTIERREZ AS PLAINTIFFS-APPELLANTS —

(a) THAT WHEN CORDOVA PURCHASED THE NOVALICHES PROPERTY, SHE WAS A MERE EMPLOYEE IN THE COMERCIO DE FILIPINAS, A COMPANY OWNED BY THE DECEASED LINO GUTIERREZ (DECISION, ANNEX A, p. 5, SEE APPELLANTS' BRIEF, p. 8);

(b) THAT FROM THE TIME THE PROPERTY WAS PURCHASED AND REGISTERED IN THE NAME OF CORDOVA UP TO THE DEATH OF LINO GUTIERREZ, THE REALTY TAXES WERE PAID IN CHECKS OF LINO GUTIERREZ (DECISION, ANNEX A, p. 6, SEE APPELLANTS' BRIEF, p. 10);

(c) THAT THE NOVALICHES PROPERTY IS ENTERED IN THE REGISTRO DE PROPIEDADES (EXH. D) AS BELONGING TO LINO GUTIERREZ, AND THAT THE SIGNATURE OF CORDOVA APPEARS ON THE VERY PAGE WHERE THE SAID PROPERTY IS MENTIONED (DECISION, ANNEX A, p. 7; SEE APPELLANTS' BRIEF, p. 8);

(d) THAT TWO (2) SETS OF THE 'AUTHORITY TO NEGOTIATE' (EXHS. E AND E-1) WERE TYPED BECAUSE MANY COPIES WERE REQUIRED FOR DISTRIBUTION TO SEVERAL AGENTS (DECISION, ANNEX A, p. 7; SEE APPELLANTS' BRIEF, p. 11);

(e) THAT THE OMISSION INITIALLY OF NICOLAS MANALAC IN THE ENUMERATION OF BENEFICIARIES WAS OBVIOUSLY INADVERTENT BECAUSE WITHOUT HIS NAME THERE WOULD ONLY BE SEVENTEEN (17) INSTEAD OF 'EIGHTEEN CO-OWNERS' (DECISION, ANNEX A, p. 7; SEE APPELLANTS' BRIEF, p. 13);

(f) THAT CORDOVA SHOULD HAVE PRODUCED HER COPY OF EXH. 'E' OR EXH. 'E-1' WITHOUT THOSE NAMES (DECISION, ANNEX A, p. 7; SEE APPELLANTS' BRIEF, p. 13);

(g) THAT THE LETTER DATED JULY 5, 1962 (EXH. L) IS A WRITTEN ACKNOWLEDGMENT BY CORDOVA THAT SAID NOVALICHES PROPERTY DID NOT BELONG TO HER BUT 'TO THE EIGHTEEN (18) BENEFICIARIES IDENTIFIED BY HER IN THE AUTHORITY TO NEGOTIATE' (EXH. E) (DECISION, ANNEX A, p. 8; SEE APPELLANTS' BRIEF, p. 10).

IV. THE RESPONDENT INTERMEDIATE APPELLATE COURT ERRED IN DECLARING THAT CORDOVA WAS MERELY A TRUSTEE HOLDING SAID NOVALICHES PROPERTY IN TRUST FOR EIGHTEEN SUPPOSED BENEFICIARIES (8/18) (AT p. 8)."

After the respondents filed their comment to the petition and the petitioners submitted their reply the Court in a resolution of March 27, 1985 gave due course to the petition and required both parties to submit their simultaneous memoranda within thirty (30) days from notice thereof. The memorandum of the parties having been submitted the case is now due for determination.

After a careful review of the records, the Court finds that the petition is impressed with merit.

In sustaining the ownership of the questioned property by the petitioner, the trial court made the following disquisition:

"The evidence (more specifically the documents) presented by the parties (plaintiffs, defendant and intervenor) show that the defendant Andrea Cordova Vda. de Gutierrez purchased with her own exclusive funds the Novaliches property involved in this case. The Deed of Absolute Sale (Exh. 'B' of plaintiffs and Exh. '7' of defendant) dated September 12, 1947, clearly shows that the defendant Andrea Cordova who was then a widow, bought the property in question from a certain Quirico Abeto, free from all liens and encumbrances

and that the vendor, Quirico Abeto received the consideration of the sale in the amount of P25,000.00 to his full satisfaction from the defendant Andrea Cordova. The Deed of Mortgage (plaintiffs' Exh. "'C' and defendant's Exh. '8' covering the property involved in this case shows that the defendant Andrea Cordova is the absolute owner of the property in question. This is shown by the terms of the contract, more particularly: 'The MORTGAGOR is now the absolute owner by virtue of the Deeds of Sale executed by the MORTGAGEE on September 12, 1947, in favor of the MORTGAGOR.' The mortgagor referred to in the above-quoted clause is the herein defendant, Andrea Cordova Vda. de Gutierrez while the mortgagee is Quirico Abeto. The Real Property Tax Register of Caloocan City (Exhs. 'M' for plaintiffs and '9' for defendant) also states the name of the defendant as the owner of the property in question. The Compromise Agreement dated February 12, 1964 (Exh. "2") submitted to the Court of First Instance of Rizal, Quezon City, Branch IX in Sp. Proc. No. Q-6832 for the settlement of the Intestate Estate of the late Don Lino Gutierrez, more particularly paragraph containing description of Real Property (Exh. '2-B') which was subsequently approved by said court in a decision (Exh. '3') dated February 13, 1964, also shows that the property being litigated in this case is the exclusive property of the defendant Andrea Cordova even before the date of the Compromise Agreement because said agreement used the phrase 'will retain as her and will continue retaining as her property those which are hers exclusively. The property in question is one of them. The fact, that the subject-matter of this case is the exclusive property of defendant is even admitted by plaintiffs' witness Antonio Gutierrez in his testimony on cross-examination, which reads as follows:

‘Q.

Is it a fact that the property designated therein as located in Novaliches, Caloocan City, covered by Transfer Certificate of Title No. 5779, include the same property which as stipulated in paragraph 2 of the compromise agreement, Exhibit 2, as to be retained by the widow Andrea Cordova Vda. de Gutierrez as her exclusive property are registered in her name, free from adverse claims, is the same property located in Novaliches Caloocan City involved in the instant case in which you are presently testifying?

‘A.

Yes, Your Honor. x x x (Tsn, pp. 46-49, June 5, 1969)."

We agree.

The deed of absolute sale, transfer certificate of title issued in the name of petitioner, the real estate mortgage executed by the petitioner as owner, the real property tax registration and the compromise agreement that was entered into in the intestate estate of Don Lino Gutierrez, are all public documents that establish the absolute and exclusive ownership of said property by petitioner. The said compromise agreement was approved in a decision of the trial court in Special Proceeding No. Q-6832 which decision has long become final and executory. It is a bar to any subsequent action raising the same issue of ownership covering the said property.[6]

Moreover, to be able to overturn such documentary evidence, clear and convincing evidence should be adduced. The Court finds no such cogent basis in the records to disturb the findings and conclusions of the trial court that the petitioner is the exclusive owner of the property in question who bought the same with her own exclusive funds.

The respondent court in reversing the judgment of the trial court made findings of facts not supported by the record.

Thus, respondent court made the following findings:

"In the case at bar, it appears that when the property in question was purchased and registered in the name of the defendant-appellee on September 12, 1947, she was an employee in the Comercio de Filipinas, a company owned by Don Lino Gutierrez with whom she had been cohabiting without the benefit of marriage since 1945 and whom she married in 1951 (Amended Complaint, Record on Appeal, pp. 2, 8; Answer, R.A., pp. 102-104; Decision, R.A., pp. 234, 256-257). Defendant-appellee was, therefore, close enough to Don Lino Gutierrez to be the latter's natural and logical choice for the position of trustee for persons he wanted to be his beneficiaries."

As correctly observed by petitioner this statement appears to be a reproduction of the allegations in the brief of private respondents which reads as follows:

"'when the property in question was acquired and registered in the name of the defendant, she was cohabiting with Don Lino Gutierrez (she a widow and he a widower) without the benefit of marriage and was employed by him in his company, Comercio de Filipinas. This circumstance lends credence to the fact that the purchase was made with the money of Don Lino Gutierrez.' (p. 8, Appellants' Brief)"

There is no evidence that petitioner was an employee of Comercio de Filipinas at the time she purchased the Novaliches property. Private respondents point out the amended complaint as basis thereof but the said allegation was specifically denied in the answer of petitioner.[7]

Buttressed against these findings of respondent court are the documentary evidence showing that petitioner purchased the property while she was a widow in 1947 with her own exclusive funds long before her marriage to Lino Gutierrez in 1951.

Petitioner catalogued the findings and conclusions of respondent court which appear to be merely copies from the brief of the private respondent as follows:

1) In the decision of the respondent court, it is stated—

" 'Defendant-appellee was, therefore, close enough to Don Lino Gutierrez to be the latter's natural and logical choice for the position of trustee for persons he wanted to be his beneficiaries.' (at p. 5)"

While in the brief of the private respondent it is alleged:

" 'that the acquisition was made for the benefit of people dear to him although the same was registered in the name of the defendant who accordingly had the obligation to hold the property in trust for the beneficiaries.' (Appellants' Brief, p. 8)"

There is no evidence that petitioner or Lino Gutierrez already knew of said alleged eighteen (18) beneficiaries including private respondents in 1947 when said property was purchased. And if it is true that said 18 beneficiaries were so instituted, some of whom being the children of the four (4) sons of Lino Gutierrez, then the latter must have known about the same and yet they signed the compromise agreement in the intestate proceedings identifying the Novaliches property as belonging exclusively to petitioner.

2) In the decision of respondent court it is observed that real estate taxes of the property were paid by checks of Gutierrez in this wise:

" 'that from the time the property was purchased and registered in the name of the defendant-appellee up to the death of Don Lino Gutierrez, the realty taxes thereon were paid in checks, by Don Lino Gutierrez or the defendant-appellee in her capacity as attorney-in-fact of Don Lino Gutierrez (Testimony of Antonio Gutierrez, TSN, March 7, 1968, pp. 27 et seq.).' (at p. 6)"

As shown by petitioner it is an echo of the allegations of the brief of private respondents as follows:

" 'that from the time the property was purchased and registered in the name of the defendant up to the death of Don Lino Gutierrez, the realty taxes thereon were paid with checks of Don Lino Gutierrez. (Testimony of Antonio Gutierrez, TSN, March 7, 1968, pp. 27 et seq.).' (at p. 10)"

Even if the payments for the real estate taxes of the property before and during the marriage of petitioner and Lino Gutierrez were made with the checks of the latter, it does not thereby disprove the claim of petitioner that the property is her paraphernal property. More so during their marriage, such payments can very well be taken from the conjugal funds.

3) While as above stated the trial court in its decision held as follows:

" 'The Compromise Agreement dated February 12, 1964 (Exh. '2') submitted to the Court of First Instance of Rizal, Quezon City, Branch IX in Sp. Proc. No. Q-6832 for the settlement of the Intestate Estate of the late Don Lino Gutierrez, more particularly paragraph containing description of Real Property (Exh. '2-B') which was subsequently approved by said court in a decision (Exh. '3') dated February 13, 1964, also shows that the property being litigated in this case is the exclusive property of the defendant Andrea Cordova even before the date of the Compromise Agreement because said agreement used the phrase 'will retain as her and will continue retaining as her property those which are hers exclusively.' (Decision, R.A. pp. 269-270)"

The respondent court in reference to the same compromise agreement made the following statement:

" 'With respect to the Compromise Agreement (EXH. '2') and the Court's decision (Exh. '3') approving the said Agreement in Special Proceedings No. Q-6832 of the Court of First Instance of Rizal, Quezon City, Branch IX, the same are irrelevant and immaterial insofar as the plaintiffs-appellants are concerned in the case at bar, for they were not parties nor signatories in the said Special Proceedings and, therefore, the said Compromise Agreement and Court decision are not legally binding upon them and cannot possibly prejudice them.' (at p. 6)"

As petitioner correctly points out it is a reproduction of the portion of the brief for private respondents which reads:

" 'While it is true that the defendant has presented certified true copies of pleadings in the judicial proceedings for the settlement of the intestate estate of the late Don Lino Gutierrez, the said pleadings are impertinent, immaterial and irrelevant insofar as the plaintiffs-appellants are concerned, for they were neither heirs nor claimants nor parties nor signatories in the said proceedings; and, therefore, how could the said pleadings bind or prejudice them in any way?' (Appellants' Brief, p. 7)"

Antonio D. Gutierrez, witness of private respondents, with his three (3) brothers, are the four (4) sons of Lino Gutierrez by his first marriage. They were parties and signatories to the compromise agreement in the intestate proceedings aforesaid recognizing the property to be the exclusive paraphernal property of petitioner. The eight (8) private respondents Gutierrez are children and heirs of the four (4) sons of Lino Gutierrez. The said decision of the trial court based on said compromise agreement is final and conclusive as to the said four (4) sons who were parties thereto. It is also final and conclusive as to their heirs and successors-in-interest, herein respondent Gutierrez. The pretension of private respondents that they are not asserting their rights as heirs but as beneficiaries does not improve their position. Were they not heirs or successors in interest of said four (4) sons of the late Lino Gutierrez they would not have been made beneficiaries, as they now claim.[8]

4) As proof of the institution of the alleged beneficiaries private respondents presented the Registro de Propiedades (Exh. D) which is the private notebook of Lino Gutierrez where a small sheet (Exh. D-1) of bond paper was inserted therein containing the supposed signature of petitioner. The trial court aptly made the following observation:

" 'Exh. "D-1', a portion of Exhibit 'D' (Registro de Propiedades) a private notebook of the late Don Lino Gutierrez, which is part of plaintiffs' and intervenor's evidence and offered for the purpose of showing that the property in question was purchased with the money of Don Lino Gutierrez and merely placed in the name of the herein defendant can not prevail over the documents; public document that is, above-mentioned. Not only that, the contents of said Exhibit 'D-1' is doubtful considering that the contents of Exhibit 'D', except Exhibit 'D-1', were all in the handwriting of the late Don Lino Gutierrez. Exhibit 'D-1' is typewritten and appears as any one should readily observe, very recent newly pasted on Exhibit 'D'." (R.A., p. 271)"

Nevertheless, respondent court gave credence to the same document by holding —

" 'the property in question is entered in this Registro as belonging to Lino Gutierrez and what is more, the signature of the defendant-appellee appears on the very page (p. 32 which is Exh. 'D-1') where the said property is mentioned.' (at pp. 6-7)"

This statement appears to be copied from the brief of private respondents as follows:

" 'the property in question is entered in this Registro as belonging to Don Lino Gutierrez! And the signature of the defendant appears on the very page where the said property is listed.' (at p. 8)"

The Court notes that the said Registro de Propiedades were all in the own handwriting of Gutierrez (Exh. E) but the sheet of bond paper to which the respondent court gave much value was typewritten and the trial court correctly found it "to be recent and newly pasted." Such private writing of questionable nature cannot overturn the public documents as the Deed of Absolute Sale and others above-mentioned showing that petitioner purchased the questioned property with her own exclusive funds.[9]

Of course the respondent court made the observation that petitioner failed to deny her signature appearing on the said paper. (Exhibit D-1) Petitioner died on October 20, 1969 so that she could not possibly deny her signature on said document which was presented in evidence in court sometime only in 1975.

5) To establish their claim to the questioned property private respondents presented an alleged authority to negotiate the property signed by petitioner which reads:

" 'AUTHORITY TO NEGOTIATE

KNOW ALL MEN BY THESE PRESENTS:

This is to authorize mr. M.S. Calayag to negotiate the sale of my hacienda at Novaliches containing an area of 250,000 square meters more or less, at the purchase price of TWO PESOS (P2.00) CASH per square meter. If the sale goes through, I will give him a bonification or commission of five (5%) percent on the total purchase price. This authority is subject to first come first serve for thirty (30) days from the date hereof, as required by the eighteen co-owners.

Manila, January 5, 1958.

FOR AND ON BEHALF OF EIGHTEEN

PERSONS OWNING THE PROPERTY:

s/ Andres C. de Gutierrez t/ ANDREA C.

DE GUTIERREZ Rita Mejia, Carlos Manal,
Adela Gutierrez, Cecilia Majia, Esperanza
Severino, Magdalena Fontanilla, Atty. Juan
Nabon, Ester Nabong, Rosario Gutierrez,
Conrado Gutierrez, Lino Gutierrez, Lourdes
Gutierrez, Teresita Gutierrez,
Virginia Gutierrez, Augusto Gutierrez, and
Ricardo Gutierrez, Nicolas Manalac' "[10]

Exhibit E is allegedly the original and Exhibit E-1 is the alleged duplicate original. However, the trial court made the following findings —

"Exhibit 'E-1', the alleged duplicate original of Exhibit 'E' (the alleged original) does not appear to be so. This is clearly reflected by an examination of the last phrase 'as required by the eighteen co-owners' which appear on both exhibits. On Exhibit 'E', the word 'required' is correctly spelled with the letter 'q' ,, whereas on Exh. 'E-1', the word "required" is misspelled with the letter 'g'. If Exhibit 'E-1' is really the duplicate original of Exhibit 'E', then as a natural consequence, both exhibits should bear the same spelling in all its contents. This does not only show that there are irregularities if not falsification in the preparation of Exhibits 'E' and 'E-1', but also strengthens the contention of defendant that there are new insertions in said exhibits because the phrase above-mentioned appears really to be newly inserted.

'Another point which the Court observes from an examination of said exhibits is that in Exhibit 'E', there are erasures whereas the same does not appear on Exhibit 'E-1'. Another insertion which the Court finds to have been committed in Exhibits 'E' and 'E-1' is the adding of names of the other alleged beneficiaries after the name, "Andrea C. de Gutierrez'. If the defendant Andrea C. de Gutierrez was really acting 'for and on behalf of eighteen persons owning the property' when she made the 'Authority to Negotiate' (Exhibits 'E' and 'E-1'), then she should not have used the personal pronoun 'my' hacienda and 'I' (will) as found in the body of said 'Authority to Negotiate'. The use of said personal pronoun clearly denotes that she made said authority only for herself alone as owner of the hacienda at Novaliches (which is the property in question) containing an area of 250,000 square meters, more or less. One thing more, Ricardo Gutierrez which is preceded by the word 'and' and followed by a period (.) is supposed to be the last name among those inserted as alleged beneficiaries of the property, but to have a basis for the complaint in intervention, the name of the intervenor, Nicolas Manalac, was also added after the period (.) following the name Ricardo Gutierrez.' (Decision, R.A., pp. 272-274; underscoring supplied.)"

As the trial court noted, the statement "for and on behalf of 18 persons owning the property" before the name and signature of petitioner and the eighteen (18) names following said name and signature appear to have been only inserted to support the theory of private respondents that they are the beneficiaries of the property.

The respondent court made the observation that two (2) sets of authority to negotiate were prepared for distribution to the agents which as petitioner points out is also copied from the brief of private respondents.[11]

Considering that there was only one agent authorized to negotiate, one Mr. Calayag, the preparation of several copies of the authority was not warranted.

6) The omission of the name of the intervenor Nicolas Manalac and its inclusion to complete the 17 beneficiaries to eighteen (18) in the authority as observed by the respondent court is again an echo of the same allegation in the

brief of private respondents.[12]

7) Private respondents also presented an alleged letter of petitioner to a certain Chayong (Exh. L), who is allegedly Rosario Gutierrez, one of the private respondents who did not appear in court nor did she identify said letter. Respondent court made the following conclusion:

" 'the letter of defendant-appellee to plaintiff-appellant Rosario Gutierrez dated July 5, 1962 (Exh. 'L') is a written acknowledgment by the defendant-appellee that the property in question did not belong to her but to the eighteen (18) beneficiaries identified by her in the Authority to Negotiate (Exh. 'E'). The letter says in part: 'Napagkaisahan namin ng Lolo mo na ang apartment sa Dayao ay ipapalit namin sa bancong pinagsasanlaan ng Novaliches at ipaparti na namin sa mga apo'. (Exh. "L-1-b'). The Novaliches property referred to is doubtless the property in question as adverted to by the lower court in its decision. (Decision, R.A., pp. 234, 268).' (at p. 8)"

The brief of private respondents also reads —

" 'This letter is a written acknowledgment by the defendant that the property in question did not belong to her but to the 18 beneficiaries identified by her in the Authority to Negotiate (Exhibit 'E'). The letter says, in parts 'Napagkaisahan namin ng Lolo mo na ang apartment sa Dayao ay ipapalit namin sa bancong pinagsasanlaan ng Novalichess at ipaparti na namin sa mga apo'. (Exhibit 'L-1-b'). The Novaliches property referred to is doubtless the property in question as adverted to by the lower court in its decision. (Decision, R.A., pp. 234, 268).' (at p. 10)"

A reading of the letter does not show that petitioner was thereby made a trustee in behalf of the supposed eighteen (18) beneficiaries. At any rate such private letter cannot overturn the above recited public documents which attest to the exclusive ownership of the property by petitioner.

Private respondents rely largely on the testimony of Antonio D. Gutierrez, one of the sons of Lino Gutierrez. While this witness admitted that he had no participation in the transaction when petitioner purchased said property from Abeto,[13] he nevertheless claims that the property was purchased with the money of his father Lino Gutierrez for the benefit of said eighteen (18) persons.[14]

Suffice it to state that said witness whose children are among the private respondents (alleged beneficiaries) cannot be expected to be an impartial witness. Moreover, considering that he participated in the intestate estate proceedings of his father, Lino Gutierrez, as one of the heirs, and was a signatory to the compromise agreement wherein the petitioner's exclusive ownership of the property in question was confirmed, he cannot, now make a total turn about and say that it is otherwise. Such a judicial admission in the compromise agreement that was submitted to the court cannot be contradicted unless previously shown to have been made through palpable mistake.[15]

WHEREFORE, the decision of the respondent court of March 30, 1984 and its resolution of October 12, 1984 are hereby Reversed and set aside, and the Decision of the trial court of February 16, 1976 is hereby AFFIRMED in toto with costs against private respondents. This Decision shall be immediately executory.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[*] Mr. Justice Marcelino R. Veloso was the ponente; with Messrs. Justices Porfirio V. Sison, Abdulwahid A. Bidin and Desiderio P. Jurado, concurring.

- [1] Exhibits B and 7.
- [2] Deed of real estate mortgage, Exhibits C and 8.
- [3] Exhibits N and 9.
- [4] See par. 2-a Compromise Agreement, Exhibits 2, 2-A to 2-B.
- [5] Exhibit 3.
- [6] *Baguio vs. Vda. de Jalagat*, 42 SCRA 337 (1971); *Dy Pac Pakiao Workers Union vs. Dy Pac and Co., Inc.*, 38 SCRA 263 (1971); *Yusingco vs. Ong Hing Lian*, 42 SCRA 589 (1971); *Libudan vs. Gil*, 45 SCRA 17 (1972).
- [7] Par. 6, amended complaint, p. 8, amended Record on Appeal; Par. 4, Answer with counterclaim, pp. 103-104, *Supra*; Annex C, Petition.
- [8] *Varsity Hills, Inc. vs. Navarro*, 43 SCRA 503 (1972); *Dy Pac Pakiao Workers Union vs. Dy Pac and Co., Inc.*, *supra*; *Yusingco vs. Ong Hing Lian*, *supra*.
- [9] *Supra*, Exhibits B and 7.
- [10] Exhibit E.
- [11] Page 7, Decision, Annex A, Brief of plaintiffs-appellants, p.11.
- [12] Decision of respondent court, p. 7; Page 13, Brief for plaintiffs-appellants.
- [13] Page 257, Decision of trial court, Amended Record on Appeal, p. 133, Rollo.
- [14] *Supra*, pages 258-259.
- [15] Section 2, Rule 129, Rules of Court.

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