



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NAPOLEON D. NERI, ALICIA D. NERI-MONDEJAR, VISMINDA D. NERI-CHAMBERS, ROSA D. NERI-MILLAN, DOUGLAS D. NERI, EUTROPIA D. ILLUT-COCKINOS AND VICTORIA D. ILLUT-PIALA,

Petitioners,

-versus-

Present:

CARPIO, *Chairperson*,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, *JJ.*

HEIRS OF HADJI YUSOP UY
AND JOLPHA* IBRAHIM UY,

Respondents.

Promulgated:

OCT 10 2012 *Atty. Carlos P. Perlas-Bernabe*

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DECISION

PERLAS-BERNABE, *J.*:

In this Petition for Review on Certiorari¹ under Rule 45 of the Rules of Court, petitioners Napoleon D. Neri (Napoleon), Alicia D. Neri-Mondejar (Alicia), Visminda D. Neri-Chambers (Visminda), Rosa D. Neri-Millan

* Erroneously referred to as Ulpha in the Regional Trial Court's Decision and Jolpha in the Petition for Review.

¹ Rollo, pp. 14-36.

(Rosa), Douglas D. Neri (Douglas), Eutropia D. Illut-Cockinos (Eutropia), and Victoria D. Illut-Piala (Victoria) seek to reverse and set aside the April 27, 2010 Decision² and October 18, 2010 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 01031-MIN which annulled the October 25, 2004 Decision⁴ of the Regional Trial Court (RTC) of Panabo City, Davao del Norte and instead, entered a new one dismissing petitioners' complaint for annulment of sale, damages and attorney's fees against herein respondents heirs of spouses Hadji Yusop Uy and Julpha Ibrahim Uy (heirs of Uy).

The Facts

During her lifetime, Anunciacion Neri (Anunciacion) had seven children, two (2) from her first marriage with Gonzalo Illut (Gonzalo), namely: Eutropia and Victoria, and five (5) from her second marriage with Enrique Neri (Enrique), namely: Napoleon, Alicia, Visminda, Douglas and Rosa. Throughout the marriage of spouses Enrique and Anunciacion, they acquired several homestead properties with a total area of 296,555 square meters located in Samal, Davao del Norte, embraced by Original Certificate of Title (OCT) Nos. (P-7998) P-2128⁵, (P-14608) P-5153⁶ and P-20551 (P-8348)⁷ issued on February 15, 1957, August 27, 1962 and July 7, 1967, respectively.

On September 21, 1977, Anunciacion died intestate. Her husband, Enrique, in his personal capacity and as natural guardian of his minor

² Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Leoncia R. Dimagiba and Angelita A. Gacutan, concurring. Id. at 41-57.

³ Id. at 75-76.

⁴ Penned by Judge Jesus L. Grageda. Id. at 151-155.

⁵ Id. at 113-114.

⁶ Id. at 115-116.

⁷ Id. at 117-118.

children Rosa and Douglas, together with Napoleon, Alicia, and Visminda executed an Extra-Judicial Settlement of the Estate with Absolute Deed of Sale⁸ on July 7, 1979, adjudicating among themselves the said homestead properties, and thereafter, conveying them to the late spouses Hadji Yusop Uy and Julpha Ibrahim Uy (spouses Uy) for a consideration of ₱80,000.00.

On June 11, 1996, the children of Enrique filed a complaint for annulment of sale of the said homestead properties against spouses Uy (later substituted by their heirs) before the RTC, docketed as Civil Case No. 96-28, assailing the validity of the sale for having been sold within the prohibited period. The complaint was later amended to include Eutropia and Victoria as additional plaintiffs for having been excluded and deprived of their legitimes as children of Anunciacion from her first marriage.

In their amended answer with counterclaim, the heirs of Uy countered that the sale took place beyond the 5-year prohibitory period from the issuance of the homestead patents. They also denied knowledge of Eutropia and Victoria's exclusion from the extrajudicial settlement and sale of the subject properties, and interposed further the defenses of prescription and laches.

The RTC Ruling

On October 25, 2004, the RTC rendered a decision ordering, among others, the annulment of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale. It ruled that while the sale occurred beyond the 5-

⁸ Id. at 92-96.

year prohibitory period, the sale is still void because Eutropia and Victoria were deprived of their hereditary rights and that Enrique had no judicial authority to sell the shares of his minor children, Rosa and Douglas.

Consequently, it rejected the defenses of laches and prescription raised by spouses Uy, who claimed possession of the subject properties for 17 years, holding that co-ownership rights are imprescriptible.

The CA Ruling

On appeal, the CA reversed and set aside the ruling of the RTC in its April 27, 2010 Decision and dismissed the complaint of the petitioners. It held that, while Eutropia and Victoria had no knowledge of the extrajudicial settlement and sale of the subject properties and as such, were not bound by it, the CA found it unconscionable to permit the annulment of the sale considering spouses Uy's possession thereof for 17 years, and that Eutropia and Victoria belatedly filed their action in 1997, or more than two years from knowledge of their exclusion as heirs in 1994 when their stepfather died. It, however, did not preclude the excluded heirs from recovering their legitimes from their co-heirs.

Similarly, the CA declared the extrajudicial settlement and the subsequent sale as valid and binding with respect to Enrique and his children, holding that as co-owners, they have the right to dispose of their respective shares as they consider necessary or fit. While recognizing Rosa and Douglas to be minors at that time, they were deemed to have ratified the sale when they failed to question it upon reaching the age of majority. It also found laches to have set in because of their inaction for a long period of time.

The Issues

In this petition, petitioners imputeto the CA the following errors:

I. WHEN IT UPHELD THE VALIDITY OF THE “EXTRA JUDICIAL SETTLEMENT OF THE ESTATE WITH ABSOLUTE DEED OF SALE” AS FAR AS THE SHARES OF EUTROPIA AND VICTORIA WERE CONCERNED, THEREBY DEPRIVING THEM OF THEIR INHERITANCE;

II. WHEN IT DID NOT NULLIFY OR ANNUL THE “EXTRA JUDICIAL SETTLEMENT OF THE ESTATE WITH ABSOLUTE DEED OF SALE” WITH RESPECT TO THE SHARES OF ROSA AND DOUGLAS, THEREBY DEPRIVING THEM OF THEIR INHERITANCE; and

III. WHEN IT FOUND THAT LACHES OR PRESCRIPTION HAS SET IN.

The Ruling of the Court

The petition is meritorious.

It bears to stress that all the petitioners herein are indisputably legitimate children of Anunciacion from her first and second marriages with Gonzalo and Enrique, respectively, and consequently, are entitled to inherit from her in equal shares, pursuant to Articles 979 and 980 of the Civil Code which read:

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.

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

As such, upon the death of Anunciacion on September 21, 1977, her children and Enrique acquired their respective inheritances,⁹ entitling them to their *pro indiviso* shares in her whole estate, as follows:

Enrique	9/16 (1/2 of the conjugal assets + 1/16)
Eutropia	1/16
Victoria	1/16
Napoleon	1/16
Alicia	1/16
Visminda	1/16
Rosa	1/16
Douglas	1/16

Hence, in the execution of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale in favor of spouses Uy, all the heirs of Anunciacion should have participated. Considering that Eutropia and Victoria were admittedly excluded and that then minors Rosa and Douglas were not properly represented therein, the settlement was not valid and binding upon them and consequently, a total nullity.

Section 1, Rule 74 of the Rules of Court provides:

SECTION 1. *Extrajudicial settlement by agreement between heirs.* – x x x

The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof. (Underscoring added)

⁹ CIVIL CODE, Art.777.

The effect of excluding the heirs in the settlement of estate was further elucidated in *Segura v. Segura*,¹⁰ thus:

It is clear that Section 1 of Rule 74 does not apply to the partition in question which was null and void as far as the plaintiffs were concerned. The rule covers only valid partitions. The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule “no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.” As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to hold that their right to challenge the partition had prescribed after two years from its execution...

However, while the settlement of the estate is null and void, the subsequent sale of the subject properties made by Enrique and his children, Napoleon, Alicia and Visminda, in favor of the respondents is valid but only with respect to their proportionate shares therein. It cannot be denied that these heirs have acquired their respective shares in the properties of Anunciacion from the moment of her death¹¹ and that, as owners thereof, they can very well sell their undivided share in the estate.¹²

With respect to Rosa and Douglas who were minors at the time of the execution of the settlement and sale, their natural guardian and father, Enrique, represented them in the transaction. However, on the basis of the laws prevailing at that time, Enrique was merely clothed with powers of administration and bereft of any authority to dispose of their 2/16 shares in the estate of their mother, Anunciacion.

¹⁰ G.R. No. L-29320, September 19, 1988, 165 SCRA 367, 373.

¹¹ Supra note 9.

¹² *Flora v. Prado*, G.R. No. 156879, January 20, 2004, 420 SCRA 396, 404.

Articles 320 and 326 of the Civil Code, the laws in force at the time of the execution of the settlement and sale, provide:

ART. 320. The father, or in his absence the mother, is the legal administrator of the property pertaining to the child under parental authority. If the property is worth more than two thousand pesos, the father or mother shall give a bond subject to the approval of the Court of First Instance.

ART. 326. When the property of the child is worth more than two thousand pesos, the father or mother shall be considered a guardian of the child's property, subject to the duties and obligations of guardians under the Rules of Court.

Corollarily, Section 7, Rule 93 of the Rules of Court also provides:

SEC. 7. *Parents as Guardians.* – When the property of the child under parental authority is worth two thousand pesos or less, the father or the mother, without the necessity of court appointment, shall be his legal guardian. When the property of the child is worth more than two thousand pesos, the father or the mother shall be considered guardian of the child's property, with the duties and obligations of guardians under these Rules, and shall file the petition required by Section 2 hereof. For good reasons, the court may, however, appoint another suitable persons.

Administration includes all acts for the preservation of the property and the receipt of fruits according to the natural purpose of the thing. Any act of disposition or alienation, or any reduction in the substance of the patrimony of child, exceeds the limits of administration.¹³ Thus, a father or mother, as the natural guardian of the minor under parental authority, does not have the power to dispose or encumber the property of the latter. Such power is granted by law only to a judicial guardian of the ward's property and even then only with courts' prior approval secured in accordance with the proceedings set forth by the Rules of Court.¹⁴

¹³ Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. 1, p. 644 (1974).

¹⁴ Herrera, Remedial Law, Vol. III-A, p. 279 (2005), citing G.R. No. L-4155, December 17, 1952.

Consequently, the disputed sale entered into by Enrique in behalf of his minor children without the proper judicial authority, unless ratified by them upon reaching the age of majority,¹⁵ is unenforceable in accordance with Articles 1317 and 1403(1) of the Civil Code which provide:

ART. 1317. No one may contract in the name of another without being authorized by the latter or unless he has by law a right to represent him.

A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party.

ART. 1403. The following contracts are unenforceable, unless they are ratified:

(1) Those entered into the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers;

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Ratification means that one under no disability voluntarily adopts and gives sanction to some unauthorized act or defective proceeding, which without his sanction would not be binding on him. It is this voluntary choice, knowingly made, which amounts to a ratification of what was theretofore unauthorized, and becomes the authorized act of the party so making the ratification.¹⁶ Once ratified, expressly or impliedly such as when the person knowingly received benefits from it, the contract is cleansed from all its defects from the moment it was constituted,¹⁷ as it has a retroactive effect.

¹⁵ *Ibañez v. Rodriguez*, 47 Phil 554, 563 (1925).

¹⁶ *Coronel v. Constantino*, G.R. No. 121069, February 7, 2003, 397 SCRA 128, 134, citing *Maglucot-Aw v. Maglucot*, 329 SCRA 78, 94 (2000).

¹⁷ CIVIL CODE, Art. 1396.

Records, however, show that Rosa had ratified the extrajudicial settlement of the estate with absolute deed of sale. In Napoleon and Rosa's Manifestation¹⁸ before the RTC dated July 11, 1997, they stated:

“Concerning the sale of our parcel of land executed by our father, Enrique Neri concurred in and conformed to by us and our other two sisters and brother (the other plaintiffs), in favor of Hadji Yusop Uy and his spouse Hadja Julpa Uy on July 7, 1979, we both confirmed that the same was voluntary and freely made by all of us and therefore the sale was absolutely valid and enforceable as far as we all plaintiffs in this case are concerned;” (Underscoring supplied)

In their June 30, 1997 Joint-Affidavit,¹⁹ Napoleon and Rosa also alleged:

“That we are surprised that our names are included in this case since we do not have any intention to file a case against Hadji Yusop Uy and Julpha Ibrahim Uy and their family and we respect and acknowledge the validity of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale dated July 7, 1979;” (Underscoring supplied)

Clearly, the foregoing statements constituted ratification of the settlement of the estate and the subsequent sale, thus, purging all the defects existing at the time of its execution and legitimizing the conveyance of Rosa's 1/16 share in the estate of Anunciacion to spouses Uy. The same, however, is not true with respect to Douglas for lack of evidence showing ratification.

Considering, thus, that the extrajudicial settlement with sale is invalid and therefore, not binding on Eutropia, Victoria and Douglas, only the shares of Enrique, Napoleon, Alicia, Visminda and Rosa in the homestead properties have effectively been disposed in favor of spouses Uy. “A person

¹⁸ Original records, pp. 82-83.

¹⁹ Id. at 84-85.

can only sell what he owns, or is authorized to sell and the buyer can as a consequence acquire no more than what the seller can legally transfer.”²⁰ On this score, Article 493 of the Civil Code is relevant, which provides:

Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Consequently, spouses Uy or their substituted heirs became *pro indiviso* co-owners of the homestead properties with Eutropia, Victoria and Douglas, who retained title to their respective 1/16 shares. They were deemed to be holding the 3/16 shares of Eutropia, Victoria and Douglas under an implied constructive trust for the latter’s benefit, conformably with Article 1456 of the Civil Code which states: “if property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.” As such, it is only fair, just and equitable that the amount paid for their shares equivalent to ₱5,000.00²¹ each or a total of ₱15,000.00 be returned to spouses Uy with legal interest.

On the issue of prescription, the Court agrees with petitioners that the present action has not prescribed in so far as it seeks to annul the extrajudicial settlement of the estate. Contrary to the ruling of the CA, the prescriptive period of 2 years provided in Section 1 Rule 74 of the Rules of Court reckoned from the execution of the extrajudicial settlement finds no application to petitioners Eutropia, Victoria and Douglas, who were deprived of their lawful participation in the subject estate. Besides, an “action or

²⁰ Supra note 10, at 374.

²¹ ₱80,000.00 (purchase price) ÷ 16 shares = ₱5,000.00.

defense for the declaration of the inexistence of a contract does not prescribe” in accordance with Article 1410 of the Civil Code.

However, the action to recover property held in trust prescribes after 10 years from the time the cause of action accrues,²² which is from the time of actual notice in case of unregistered deed.²³ In this case, Eutropia, Victoria and Douglas claimed to have knowledge of the extrajudicial settlement with sale after the death of their father, Enrique, in 1994 which spouses Uy failed to refute. Hence, the complaint filed in 1997 was well within the prescriptive period of 10 years.

WHEREFORE, the instant petition is **GRANTED**. The April 27, 2010 Decision and October 18, 2010 Resolution of the Court of Appeals are **REVERSED** and **SET ASIDE** and a new judgment is entered:

1. Declaring the Extra-Judicial Settlement of the Estate of Anunciacion Neri **NULL** and **VOID**;

2. Declaring the Absolute Deed of Sale in favor of the late spouses Hadji Yusop Uy and Julpha Ibrahim Uy as regards the 13/16 total shares of the late Enrique Neri, Napoleon Neri, Alicia D. Neri-Mondejar, Visminda D. Neri-Chambers and Rosa D. Neri-Millan **VALID**;

3. Declaring Eutropia D. Illut-Cockinos, Victoria D. Illut-Piala and Douglas D. Neri as the **LAWFUL OWNERS** of the 3/16 portions of the

²² CIVIL CODE, Art. 1144.


²³ *Aznar Brothers Realty Company vs. Aying*, G.R. No. 144773, May 16, 2005, 458 SCRA 496, 511.

subject homestead properties, covered by Original Certificate of Title Nos. (P-7998) P-2128, (P-14608) P-5153 and P-20551 (P-8348); and

4. Ordering the estate of the late Enrique Neri, as well as Napoleon Neri, Alicia D. Neri-Mondejar, Visminda D. Neri-Chambers and Rosa D. Neri-Millan to return to the respondents jointly and solidarily the amount paid corresponding to the 3/16 shares of Eutropia, Victoria and Douglas in the total amount of ₱15,000.00, with legal interest at 6% per annum computed from the time of payment until finality of this decision and 12% per annum thereafter until fully paid.

No pronouncement as to costs.

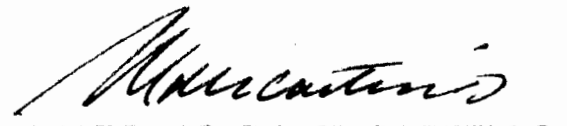
SO ORDERED.

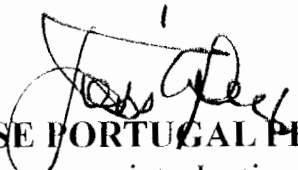

ESTELA M. PÉRLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice