Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OSCAR CONSTANTINO, MAXIMA CONSTANTINO and CASIMIRA MATURINGAN,
Petitioners,

- versus -

HEIRS OF PEDRO CONSTANTINO, JR., represented by ASUNCION LAQUINDANUM,
Respondents.

G.R. No. 181508

Present:

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

Promulgated:

OCT 0 2 2013

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D E C I S I O N

PEREZ, *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the 31 May 2007 Decision[1] of the Court of Appeals in CA-G.R. CV No. 81329, which reversed the 27 October 2003 Decision[2] of the Regional Trial Court (RTC), Branch 18 of Malolos City, Bulacan, in a complaint for Declaration of Nullity of "Pagmamana sa Labas

[1] Penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Portia Aliño-Hormachuelos and Edgardo F. Sundiam. CA *rollo*, 40-53.

[2] Penned by Judge Victoria C. Fernandez-Bernardo, records. pp.190-194.

ng Hukuman," Tax Declaration Nos. 96-10022-02653 & 1002655, With Prayer for a Writ of Preliminary Injunction & Damages docketed as Civil Case No. 630-M-99.

The Facts

This involves a controversy over a parcel of land claimed to be part of an estate which needed to be proportionally subdivided among heirs.

Pedro Constantino, Sr., (Pedro Sr.) ancestors of the petitioners and respondents, owned several parcels of land, one of which is an unregistered parcel of land declared for taxation purposes under Tax Declaration 20814[3] consisting of 240 square meters situated at Sta. Monica, Hagonoy, Bulacan. Pedro, Sr., upon his death, was survived by his six (6) children, namely: 1) PEDRO CONSTANTINO, JR. (Pedro Jr.), the grandfather of the respondents; 2) ANTONIA CONSTANTINO, who later died without issue; 3) CLARA CONSTANTINO, who also later died without issue; 4) BRUNO CONSTANTINO, who was survived by his 6 children including petitioner Casimira Constantino-Maturingan; 5) EDUARDO CONSTANTINO, who is survived by his daughter Maura; and 6) SANTIAGO CONSTANTINO, who was survived by his five (5) children which includes petitioner Oscar Constantino.[4]

On 17 June 1999, respondents Asuncion Laquindanum (Asuncion) and Josefina Cailipan (Josefina), great grandchildren of Pedro Sr., in representation of Pedro, Jr. filed a complaint[5] against petitioners Oscar Constantino, Maxima Constantino and Casimira Maturingan, grandchildren of Pedro Sr., for the nullification of a document denominated as "Pagmamana sa Labas ng Hukuman" dated 10 August 1992,[6] Tax Declaration Nos. 96-10022 (02653)[7] and 96-10022 (02655)[8] and reinstatement of Tax Declaration No. 20814[9] in the name of Pedro Sr.

In the said complaint, respondents alleged that sometime in October 1998, petitioners asserted their claim of ownership over the whole parcel of land (240 sq m) owned by the late Pedro Sr., to the exclusion of respondents who are occupying a portion thereof. Upon verification, respondents learned

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3 Exhibit "F," id. at 10.
4 Id. at 3-4.
5 Id. at 2-8.
6 Exhibit "E," id. at 11.
7 Exhibit "C," id. at 14.
8 Exhibit "D," id. at 16.
9 Exhibit "F," id. at 10.

that a Tax Declaration No. 02010-2170-33235 in the name of petitioner Oscar Constantino and his cousin Maxima Constantino was unlawfully issued, which in effect canceled Tax Declaration No. 20814 in the name of their ancestor Pedro Sr. The issuance of the new tax declaration was allegedly due to the execution of a simulated, fabricated and fictitious document denominated as "Pagmamana sa Labas ng Hukuman," wherein the petitioners misrepresented themselves as the sole and only heirs of Pedro Sr. It was further alleged that subsequently, the subject land was divided equally between petitioners Oscar and Maxima resulting in the issuance of Tax Declaration No. 96-10022-02653[10] in the name of Oscar, with an area of 120 sq m and the other half in the name of Maxima covered by Tax Declaration No. 96-10022-02652.[11] The share of Maxima was eventually conveyed to her sister, petitioner Casimira in whose name a new Tax Declaration No. 96-10022-02655[12] was issued.

Thus, respondents sought to annul the "Pagmamana sa Labas ng Hukuman" as well as the Tax Declarations that were issued on the basis of such document.

The petitioners, on the other hand, averred in their Answer With Counterclaim[13] that Pedro Sr., upon his death, left several parcels of land, namely: 1) a lot with an area of 240 sq m covered by Tax Declaration No. 20814; 2) a lot with an area of 192 sq m also situated at Sta. Monica, Hagonoy, Bulacan, previously covered by Tax Declaration No. 9534; and 3) an agricultural land with an area of Four (4) hectares, more or less. The petitioners claimed that the document "Pagmamana sa Labas ng Hukuman" pertaining to the 240 sq m lot was perfectly valid and legal, as it was a product of mutual and voluntary agreement between and among the descendants of the deceased Pedro Sr.

Further, petitioners alleged that the respondents have no cause of action against them considering that the respondents' lawful share over the estate of Pedro Sr., had already been transferred to them as evidenced by the Deed of Extrajudicial Settlement with Waiver[14] dated 5 December 1968, executed by Angelo Constantino, Maria Constantino (mother of respondent Asuncion), Arcadio Constantino and Mercedes Constantino, all heirs of Pedro Jr. In the said deed, respondents adjudicated unto themselves to the exclusion of other heirs, the parcel of land with an area of 192 sq m by

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10 Id. at 98.
11 Id. at 99.
12 Id. at 101.
13 Id. at 24-28.
14 Id. at 30-31.

misrepresenting that they were "the only legitimate heirs of Pedro Sr. Thus, petitioners claimed that in the manner similar to the assailed "Pagmamana sa Labas ng Hukuman," they asserted their rights and ownership over the subject 240 sq m lot without damage to the respondents.

In essence, petitioners position was that the Deed of Extrajudicial Settlement with Waiver which led to the issuance of Tax Declaration No. 9534 was acquiesced in by the other heirs of Pedro Sr., including the petitioners, on the understanding that the respondent heirs of Pedro Jr. would no longer share and participate in the settlement and partition of the remaining lot covered by the "*Pagmamana sa Labas ng Hukuman*."

On 15 August 2000, pre-trial conference[15] was conducted wherein the parties entered into stipulations and admissions as well as identification of the issues to be litigated. Thereupon, trial on the merits ensued.

On 27 October 2003, the RTC rendered a Decision[16] in favor of the respondents finding that:

> As a result of execution of "Extrajudicial Settlement with Waiver" dated December 5, 1968 (Exh. "2") executed by the heirs of Pedro Constantino, Jr., a son of Pedro Constantino, Sr. and the subsequent execution of another deed denominated as "Pagmamana sa Labas ng Hukuman" dated August 10, 1992 (Exh. "E") executed by the heirs of Santiago and Bruno Constantino, also other sons of Pedro Constantino, Sr., to the exclusion of the other heirs, namely, those of ANTONIA, CLARA, and EDUARDO CONSTANTINO, both plaintiffs and defendants acted equally at fault. They are in pari delicto, whereby the law leaves them as they are and denies recovery by either one of them. (See: Yu Bun Guan v. Ong, 367 SCRA 559). Parties who are equally guilty cannot complain against each other. (Sarmiento v. Salud, 45 SCRA 213.)
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> Supplementing the law on the matter, that is, the provision of Article 19 of the New Civil Code whereby every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith, is the legal maxim that "he who comes to court to demand equity must come with clean hands." (LBC Express, Inc. v. Court of Appeals, 236 SCRA 602).

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15 Id. at 70-71.

16 Id. at 190-194.

> Although, plaintiffs-heirs of Pedro Constantino, Jr., including Asuncion Laquindanum and Josefina Cailipan, are not parties or signatories to the "Extrajudicial Settlement with Waiver" dated December 5, 1968, they are successors-in-interest of Pedro Constantino, Jr. They are considered "privies" to said deed, and are bound by said extrajudicial settlement. (See: Cabresos v. Tiro, 166 SCRA 400). In other words, they are "PRIVIES IN ESTATE". (Correa v. Pascual, 99 Phil. 696, 703).
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> Consequently, plaintiffs are now estopped from claiming otherwise. (See: PNB v. CA, 94 SCRA 357). They are estopped to share in the real property subject matter of this case. In fine, they are not entitled to the reliefs prayed for. (Communication Materials & Design, Inc. v. CA, 260 SCRA 673).
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> With respect to alleged damages claimed by plaintiffs against defendants in their Complaint and counterclaim for damages by defendants against plaintiffs in their Answer, both claims are hereby dismissed for lack of valid factual and legal foundations.
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> Disposition
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> WHEREFORE, in view of the foregoing premises and disquisition, the deed denominated as "Pagmamana sa Labas ng Hukuman" of August 10, 1992 and Tax Declaration No. 96-10022-02653 in the name of Oscar Constantino and Tax Declaration No. 96-10022-02655 in the name of Casimira C. Maturingan (from Maxima Constantino to Casimira C. Maturingan) stand. Plaintiffs' Complaint for nullification thereof with damages is hereby DISMISSED.[17]

Not convinced, the respondents appealed the aforequoted decision to the Court of Appeals (CA) raising, among others, the erroneous application by the trial court of the doctrine of "*in pari delicto*" in declaring the validity of the document "Pagmamana sa Labas ng Hukuman."

In its 31 May 2007 Decision,[18] the CA ruled in favor of the respondents heirs of Pedro, Jr., declaring that the "Extrajudicial Settlement with Waiver" dated 5 December 1968 they executed covering the 192 sq m lot actually belongs to Pedro Jr., hence, not part of the estate of Pedro Sr. The CA rationated in this wise:

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17 Id. at 193-194.

18 *Rollo*, pp. 32-45.

> The 192 square meters lot which was adjudicated in the "Extrajudicial Settlement with Waiver" dated 5 December 1968 among the heirs of Pedro Jr. namely Angelo, Maria, Arcadio and Mercedes is a property belonging to Pedro Jr. although there is a typographical error in that the name of Pedro Jr. was inadvertently typed only as *Pedro Constantino*. It is clear from the reading of the document that a typographical error was committed because the four (4) children of Pedro Jr. by Felipa dela Cruz were specifically identified. Further, during the presentation of evidence of the plaintiffs-appellants, it was rebutted that Pedro Sr. had six (6) legitimate children namely: Pedro Jr., Antonia, Clara, Santiago, Bruno and Eduardo[19]and Pedro Jr. had four (4).[20]

Thus, the CA went on to state that the respondents, heirs of Pedro Jr., did not adjudicate the 192 sq m lot unto themselves to the exclusion of all the other heirs of Pedro Sr. Rather, the adjudication in the document entitled "Extrajudicial Settlement with Waiver dated 5 December 1968 pertains to a different property and is valid absent any evidence to the contrary. Hence, it is erroneous for the trial court to declare the parties *in pari delicto*.

The Issue

The petitioners now question the said ruling assigning as error, among others, the failure of the CA to appreciate the existence of misrepresentation in both documents, thereby ignoring the propriety of the application of the *in pari delicto* doctrine. Likewise assailed is the erroneous disregard by the CA of stipulations and admissions during the pre-trial conference on which the application of the doctrine of *in pari delicto* was based.

Our Ruling

Latin for "in equal fault," *in pari delicto* connotes that two or more people are at fault or are guilty of a crime. Neither courts of law nor equity will interpose to grant relief to the parties, when an illegal agreement has been made, and both parties stand *in pari delicto*.[21] Under the *pari delicto* doctrine, the parties to a controversy are equally culpable or guilty, they shall have no action against each other, and it shall leave the parties where it finds them. This doctrine finds expression in the maxims "*ex dolo malo non oritur actio*" and "*in pari delicto potior est conditio defendentis.*"[22]

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19 TSN, 23 October 2000, pp. 4-7.

20 *Rollo*, page 41.

21 A law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier. Published 1856.

22 *Ubarra v. Mapalad*, A.M. No. MTJ-91-622, 22 March 1993, 220 SCRA 224, 235.

When circumstances are presented for the application of such doctrine, courts will take a hands off stance in interpreting the contract for or against any of the parties. This is illustrated in the case of *Packaging Products Corporation v. NLRC*,[23] where this Court pronounced that:

> This Court cannot give positive relief to either petitioner or respondent because we are asked to interpret and enforce an illegal and immoral arrangement. (See Articles 1409, 1411, and 1412 of the Civil Code). Kickback arrangements in the purchase of raw materials, equipment, supplies and other needs of offices, manufacturers, and industrialists are so widespread and pervasive that nobody seems to know how to eliminate them. x x x.
>
> Both the petitioners and the private respondent are in *pari delicto*. Neither one may expect positive relief from courts of justice in the interpretation of their contract. The courts will leave them as they were at the time the case was filed.[24]

As a doctrine in civil law, the rule on *pari delicto* is principally governed by Articles 1411 and 1412 of the Civil Code, which state that:

> Article 1411. When the nullity proceeds from the illegality of the cause or object of the contract, and the act constitutes a criminal offense, both parties being in pari delicto, they shall have no action against each other, and both shall be prosecuted.
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> xxx xxx
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> Article 1412. If the act in which the unlawful or forbidden cause consists does not constitute a criminal offense, the following rules shall be observed:
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> xxx xxx
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> 1. When the fault is on the part of both contracting parties, neither may recover what he has given by virtue of the contract, or demand the performance of the other's undertaking;
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> xxx xxx.

The petition at bench does not speak of an illegal cause of contract constituting a criminal offense under Article 1411. Neither can it be said that Article 1412 finds application although such provision which is part of Title

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23 236 Phil. 225 (1987).

24 Id. at 234-235.

II, Book IV of the Civil Code speaks of contracts in general, as well as contracts which are null and void *ab initio* pursuant to Article 1409 of the Civil Code – such as the subject contracts, which as claimed, are violative of the mandatory provision of the law on legitimes.

We do not dispute that herein parties, through the Deeds they separately executed deprived each other of rightful shares in the two lots subject of the separate contracts – that is, if the two (2) parcels of land subject matter thereof, form part of the estate of the late Pedro Sr.

It is asserted by the petitioners that their execution in 1992 of the contract denominated as "Pagmamana sa Labas ng Hukuman" which excluded other heirs of Pedro Sr., was with an underlying agreement with the other heirs including Maria Constantino, daughter of Pedro Jr. and grandmother of respondents.[25] The agreement was for the other heirs to recognize the 192 square meters lot subject matter of the "Extrajudicial Settlement with Waiver" executed in 1968 as the share of the heirs of Pedro Sr. in the estate of Pedro Sr., Petitioners respected such agreement, as in fact, Maria Laquindanum and that of her heirs, herein respondents, were not disturbed in their possession or ownership over the said parcel of land; thus, the heirs of Pedro Jr. were said to have acquiesced[26] to the "Pagmamana sa Labas ng Hukuman" and the underlying agreement and therefore they have no recourse or reason to question it taking cue from the doctrine of *in pari delicto*. This was the basis of the trial court's findings that respondents are now estopped from claiming otherwise.[27]

We find that the trial court erroneously applied the doctrine.

This is not to say, however, that the CA was correct in upholding the validity of the contract denominated as "Pagmamana sa Labas ng Hukuman." The CA decision being, likewise, based on *pari delicto*, is also incorrect.

Finding the inapplicability of the *in pari delicto* doctrine, We find occasion to stress that Article 1412 of the Civil Code that breathes life to the doctrine speaks of the rights and obligations of the parties to the contract with an illegal cause or object which does not constitute a criminal offense. It applies to contracts which are void for illegality of subject

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25 Answer with Counterclaim filed by defendants, herein petitioners, records, pp. 24-28.

26 Id. at 26.

27 Page 5 of the Decision dated 27 October 2003, id. at 194.

matter and not to contracts rendered void for being simulated,[28] or those in which the parties do not really intend to be bound thereby. Specifically, *in pari delicto* situations involve the parties in one contract who are both at fault, such that neither can recover nor have any action against each other.

In this case, there are two Deeds of extrajudicial assignments unto the signatories of the portions of the estate of an ancestor common to them and another set of signatories likewise assigning unto themselves portions of the same estate. The separate Deeds came into being out of an identical intention of the signatories in both to exclude their co-heirs of their rightful share in the entire estate of Pedro Sr. It was, in reality, an assignment of specific portions of the estate of Pedro Sr., without resorting to a lawful partition of estate as both sets of heirs intended to exclude the other heirs.

Clearly, the principle of *in pari delicto* cannot be applied. The inapplicability is dictated not only by the fact that two deeds, not one contract, are involved, but because of the more important reason that such an application would result in the validation of both deeds instead of their nullification as necessitated by their illegality. It must be emphasized that the underlying agreement resulting in the execution of the deeds is nothing but a void agreement. Article 1409 of the Civil Code provides that:

> ART. 1409. The following contracts are inexistent and void from the beginning:
>
> (1) Those whose cause, object or purpose is contrary to law; morals, good customs, public order or public policy;
>
> xxx xxx xxx

Corollarily, given the character and nature of the deeds as being void and inexistent, it has, as a consequence, of no force and effect from the beginning, as if it had never been entered into and which cannot be validated either by time or ratification.[29]

That said, we cannot give credence to the contention of respondents that no fault can be attributed to them or that they are free from the effects of violation of any laws arising from the supposed unlawful agreement entered into between Maria Laquindanum, their predecessor-in-interest, and the other heirs, including petitioners herein, based on the

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[28] Lecture Notes on Civil Code by Professor Ruben F. Balane, p. 352.

[29] Civil Code of the Philippines, Vol. IV, Tolentino, 1973 Ed., p. 592, also cited in *Tongoy v. Court of Appeals*, 208 Phil. 95, 113 (1983).

fact that they are not signatories to said agreement, thus, the lack of any binding effect to them. Respondents argued and set forth as an issue during the trial that they were not signatories to any of the contract or privies to such an arrangement. It is not disputed, however, that respondents are successors-in-interest of Maria Laquindanum, one of the signatories in the Extrajudicial Settlement with Waiver who was also allegedly in agreement with the petitioners.

On this note, We agree with the trial court that respondents are "privies" to Maria Laquindanum. By the term "privies" is meant those between whom an action is deemed binding although they are not literally parties to the said action.[30] This Court, in *Correa v. Pascual*,[31] had occasion to explain that *"privity in estate denotes the privity between assignor and assignee, donor and donee, grantor and grantee, joint tenant for life and remainderman or reversioner and their respective assignees, vendor by deed of warranty and a remote vendee or assignee. A privy in estate is one, it has been said, who derives his title to the property in question by purchase; one who takes by conveyance."* In fine, respondents, as successors-in-interest, derive their right from and are in the same position as their predecessor in whose shoes they now stand. As such successors, respondents' situation is analogous to that of a transferee *pendente lite* illustrated in *Santiago Land Development Corporation v. Court of Appeals*,[32] reiterating *Fetalino v. Sanz*[33] where this Court held:

> As such, he stands exactly in the shoes of his predecessor in interest, the original defendant, and is bound by the proceedings had in the case before the property was transferred to him. He is a proper, but not an indispensable, party as he would, in any event, have been bound by the judgment against his predecessor.[34]

Thus, any condition attached to the property or any agreement precipitating the execution of the Deed of Extrajudicial Settlement with Waiver which was binding upon Maria Laquindanum is applicable to respondents who merely succeeded Maria.

This notwithstanding, it must however be shown that the Deed of Extrajudicial Settlement with Waiver, referred to a property owned by Pedro Sr. There is such basis from the facts of this case.

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30 *Cabresos v. Judge Tiro*, 248 Phil. 631, 636-637 (1988).
31 99 Phil. 696, 703 (1956) quoting 50 C.J., 407 and 33 Words and Phrases, 800.
32 334 Phil. 741, 747 (1997).
33 44 Phil. 691(1923).
34 Id. at 694.

The records show that apart from respondent Asuncion Laquindanums's statement that the parcel of land subject matter of the Deed of Extrajudicial Settlement with Waiver is not part of the estate of Pedro Sr., their common ancestor, no other evidence was offered to support it. The CA in giving credence to the respondents' claim, merely relied on the alleged typographical error in the Deed. The basis for the CA's conclusion was the inclusion of the wife of Pedro Jr. and that of their children, which the CA considered as proof that the property was owned by Pedro Jr. and not part of the estate of Pedro Sr. As pointed out by the petitioners, the mention of the names of the children of Pedro Jr. in the Extrajudicial Settlement is not proof that the subject of the deed is the property of Pedro Jr. Meant to exclude all the other heirs of Pedro Sr., only the children of Pedro Jr. appeared in the Extrajudicial Settlement as heirs.

Weak as the reasoning is, the CA actually contradicted the admissions made no less by the respondents during the pre-trial conference where they stipulated that the land covered by Tax Declaration No. 9534 consisting of 192 sq. m belongs to Pedro Sr.[35]

A portion of the admission and stipulations made by both parties during the pre-trial is hereunder quoted, thus:

Respondents' admissions:

> "1. **That the land covered by Tax Declaration No. 9534 previously owned by Pedro Constantino, Sr. was transferred to Maria Constantino under Tax Declaration No. 9535**; (highlighting ours)
>
> 1. The existence of Extrajudicial Settlement with Waiver per Doc. No. 319, Page No. 44, Book No. 11, Series of 1968 by Notary Public Romerico Flores, Jr."

Clearly, the above stipulation is an admission against respondents' interest of the fact of ownership by Pedro Sr. of the 192 sq m lot covered by Tax Declaration No. 9534, which was transferred to respondents' mother, the daughter of Pedro Jr. Such that, in one of the issues submitted to be resolved by the trial court, this was included: "Whether or not the "Deed of Extrajudicial Settlement with Waiver" is enforceable against the plaintiffs,

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35 Records, pp. 70-71.

thus curing the legal infirmities, if any, of the "Pagmamana sa Labas ng Hukuman"[36] – an issue earlier mentioned.

Judicial admissions are legally binding on the party making the admissions. Pre-trial admission in civil cases is one of the instances of judicial admissions explicitly provided for under Section 7, Rule 18 of the Rules of Court, which mandates that the contents of the pre-trial order shall control the subsequent course of the action, thereby, defining and limiting the issues to be tried. In *Bayas, et. al. v. Sandiganbayan, et. al.*,[37] this Court emphasized that:

> Once the stipulations are reduced into writing and signed by the parties and their counsels, they become binding on the parties who made them. **They become judicial admissions of the fact or facts stipulated**.[38] Even if placed at a disadvantageous position, a party may not be allowed to rescind them unilaterally, it must assume the consequences of the disadvantage.[39] (Highlighting ours)

Moreover, in *Alfelor v. Halasan*,[40] this Court declared that:

> A party who judicially admits a fact cannot later challenge the fact as judicial admissions are a waiver of proof; production of evidence is dispensed with. A judicial admission also removes an admitted fact from the field of controversy. Consequently, an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to such party, and all proofs to the contrary or inconsistent therewith should be ignored, whether objection is interposed by the party or not. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contrary of or inconsistent with what was pleaded.[41] (Citations omitted)

We are aware that the last paragraph of Section 7, Rule 18 of the Rules of Court serves as a caveat for the rule of conclusiveness of judicial admissions – for, in the interest of justice, issues that may arise in the course of the proceedings but which may not have been taken up in the pre-trial can still be taken up.

Section 7, Rule 18 of the Rules of Court reads:

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36 Id. at 71.
37 440 Phil. 54 (2002).
38 Id. at 69, citing *Schreiber v. Rickert*, 50 NE 2d 879, 13 October 1943.
39 Id.
40 520 Phil. 982 (2006).
41 Id. at 991.

> Section 7. Record of pre-trial. – The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall, explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent injustice.

In addition, Section 4 of Rule 129 of the Rules of Court, provides that:

> An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

As contemplated in the aforementioned provision of the Rules of Court, the general rule regarding conclusiveness of judicial admission upon the party making it and the dispensation of proof admits of two exceptions: 1) when it is shown that the admission was made through palpable mistake, and 2) when it is shown that no such admission was in fact made. The latter exception allows one to contradict an admission by denying that he made such an admission.[42]

However, respondents failed to refute the earlier admission/stipulation before and during the trial. While denying ownership by Pedro Sr. of the 192 sq m lot, respondent Asuncion Laquindanum, when placed on the stand, offered a vague explanation as to how such parcel of land was acquired by Pedro Jr. A portion of her testimony[43] is hereto reproduced as follows:

> "ATTY. DOMINGO:
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> Q: Do you know if as part of the estate of the late Pedro Constantino, Sr. is another parcel of land also situated at Sta. Maria, Hagonoy, Bulacan with an area of 192 square meters?
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> A: It is not owned by Pedro Constantino, Sr., sir. It is our property owned by Pedro Constantino, Jr. that was inherited by my mother Maria Constantino.

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42 *Florentino Atillo, III v. Court of Appeals, et. al.*, 334 Phil. 546, 552 (1997).

43 TSN, 23 November 2000, p. 6.

> Q: And ***do you know how Pedro Constantino, Jr. acquired that parcel of land***, the one that you mentioned a while ago?
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> A: ***Kinagisnan ko na po yong lupang yon pagkabata pa na yon e amin***." (Highlighting ours)

The above assertion of denial is simply a self-serving declaration unsupported by evidence. This renders conclusive the stipulations made during the pre-trial conference. Consequently, respondents are bound by the infirmities of the contract on which they based their right over the property subject matter thereof. Considering that the infirmities in the two deeds relate to exclusion of heirs, a circumvention of an heir's right to his or her legitime, it is apt to reiterate our ruling in *Neri v. Heirs of Hadji Yusop Uy*, [44] disposing that:

> Hence, in the execution of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale in favour of spouses Uy, all the heirs of Anunciation 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**. (Highlighting ours)

Further highlighting the effect of excluding the heirs in the settlement of estate, the case of *Segura v. Segura*,[45] elucidated 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 partition. 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 x x x.

In light of the foregoing, while both parties acted in violation of the law on legitimes, the *pari delicto* rule, expressed in the maxims *"Ex dolo malo non oritur action" and "in pari delicto potior est condition defendentis,"* which refuses remedy to either party to an illegal agreement and leaves them where they are, does not apply in this case. (Underline supplied) [46] As held in *De Leon v. CA*:[47]

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44 G.R. No. 194366, 10 October 2012, 683 SCRA 553, 560.

45 Id. at 561 citing *Segura v. Segura* 247-A Phil. 449, 456 (1988).

> In the ultimate analysis, therefore, both acted in violation of laws. However, the pari delicto rule expressed in the maxims "Ex dolo malo non oritur action" and "In pari delicto potior est condition defendentis," which refuses remedy to either party to an illegal agreement and leaves them where they are does not apply in this case.
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> xxx xxx xxx
>
> Since the Letter-Agreement was repudiated before the purpose has been accomplished and to adhere to the pari delicto rule in this case is to put a premium to the circumvention of the laws, positive relief should be granted to Macaria. Justice would be served by allowing her to be placed in the position in which she was before the transaction was entered into.

Accordingly, in order not to put a premium to the circumvention of the laws as contemplated by the parties in the instant case, we must declare both contracts as void. Indeed, any circumvention of the law cannot be countenanced.[48]

WHEREFORE, the 31 May 2007 Decision of the Court of Appeals in CA-G.R. CV No. 81329 is hereby **REVERSED.** The *Pagmamana sa Labas ng Hukuman* and Extrajudicial Settlement with Waiver are hereby declared void without prejudice to the partition of the estate of Pedro Constantino Sr. with the full participation of all the latter's heirs.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

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46 *De Leon v. Court of Appeals*, G.R. No. 80965, 6 June 1990, 186 SCRA 345, 359.

47 Id.

48 *Magsalin, v. National Organization of Working Men, et. al.*, 451 Phil. 254, 262 (2003).

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were 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, it is hereby certified that the conclusions in the above Decision were 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