Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HEIRS OF TIMBANG DAROMIMBANG DIMAAMPAO, namely: CABIB D. ALAWI, ACMAD D. ALAWI, KALIKO D. ALAWI, ABU ALI D. ALAWI, MOKHAYMA D. ABAB, and MARIAM ABAB, represented by CABIB D. ALAWI,
Petitioners,

- versus -

ATTY. ABDULLAH ALUG, HADJI BOGABONG BALT and HEIRS OF HADJI ALI PETE PANGARUNGAN, namely: HADJA SITTIE SALIMA PANGARUNGAN, AMINA P. ALANGADI, JAMELA P. SANI, ANSARY S. PANGARUNGAN, RAMLA P. PANGCAT, JACKLYN P. BANTO, ACMAD T. PANGARUNGAN, ACMELA P. MAMAROBA, AMERA P. LALANTO, ACLI T. PANGARUNGAN, ASMIA P. BANOCAG, ABDARI T. PANGARUNGAN, ASLIA T. PANGARUNGAN, HANIPA T. PANGARUNGAN, CALILI T. PANGARUNGAN, and ANSANTO T. PANGARUNGAN, represented by HADJA SITTIE SALIMA PANGARUNGAN,
Respondents.

G.R. No. 198223

Present:

VELASCO, JR., *J., Chairperson,*
PERALTA,
DEL CASTILLO,*
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

February 18, 2015

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* Designated Acting Member, in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 1934 dated February 11, 2015.

D E C I S I O N

PERALTA, *J*.:

Assailed in this petition for review on *certiorari* are the Decision[1] dated July 2, 2010 of the Court of Appeals in CA-G.R. SP No. 02376-MIN and the Resolution[2] dated July 27, 2011 denying reconsideration thereof.

On February 15, 2005, petitioners Heirs of Timbang Daromimbang Dimaampao represented by Cabib D. Alawi, filed with the Regional Trial Court (*RTC)* of Lanao del Sur, Marawi City, a Complaint[3] for declaration of deed of sale as a nullity, quieting of title and damages against respondents Abdullah Alug, Hadji Bogabong Balt and Heirs of Hadji Ali Pete Pangarungan, represented by Hadja Sittie Salima Pangarungan. Petitioners alleged that they are the owners *pro indiviso* and lawful possessors of a parcel of land located at Madaya, Marawi City with an area of 157,738 square meters covered by OCT No. RP-355 (*subject lot*), Homestead Patent No. 47201; that they acquired ownership and possession of the subject land and the improvements thereon by way of inheritance from their deceased grandmother, Timbang Daromimbang Dimaampao (*Timbang*), who was the true and exclusive owner and lawful possessor of the subject lot; that Cota Dimaampao (*Cota*) and Timbang got married in accordance with the Muslim rites and the subject lot was among the dowries given by the former to the latter; that during the existence of their marriage, the spouses applied for registration and titling of the land and their homestead application was approved and was issued OCT No. RP-355 in their names; that sometime after the issuance of the said title, Cota and Timbang were divorced from each other, hence, Timbang and their two daughters continued possession and ownership of the subject land, while Cota contracted another marriage; that when Timbang died, her daughters succeeded her on the ownership and possession of the land until their deaths and were survived by herein petitioners.

Petitioners claimed that sometime on April 10, 1978, without their knowledge and that of their predecessors, Cota executed a deed of sale in favor of respondents involving the subject land; that respondents were in bad faith since at the time of purchase, petitioners by themselves were in actual possession of the land in the concept of owners; that the deed of sale was invalid because Cota had no right to sell any portion of the subject land as he was not the owner thereof; that the deed of sale cast a cloud of doubt

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1 Penned by Associate Justice Edgardo A. Camello, with Associate Justices Leoncia R. Dimagiba and Nina G. Antonio-Valenzuela, concurring; *rollo*, pp. 47-54.

2 Penned by Associate Justice Edgardo A. Camello, with Associate Justices Abraham B. Borreta and Melchor Quirino C. Sadang, concurring; *id*. at 55-56.

3 *Id.* at 57-65; Docketed as Civil Case No. 2046-05 and was raffled off to Branch 8.

on petitioners' title; that despite such deed of sale, respondents have never occupied any portion of the subject land. Petitioners stated that the subject land was allegedly sold by Cota to deceased Sheik Pangandaman Daromimbang (Timbang's brother) who then donated the same to his daughter and son-in-law which deeds of sale and donation, however, were annulled by the RTC Lanao del Sur, Branch 9, in Civil Case No. 2410; that they were not impleaded as parties in that case even if they were in possession of the land; that the RTC decision was affirmed by the CA and became final which cast a cloud of doubt on their title and ownership of the land. Petitioners prayed that the Deed of Sale dated April 10, 1978 between Cota and respondents be declared null and void, and for them to be declared as the rightful owners and lawful possessors of the subject land.

Respondents filed their Answer[4] denying petitioners' claim of ownership and possession of the subject land as they owned and possessed the same since 1978; that the validity of the Deed of Sale dated April 10, 1978 involving the subject land was already upheld by the RTC Lanao del Sur, Branch 9, in Civil Case No. 2410, entitled "Cota Dimaampao, *et al.* v. Sheik Pangandaman Daromimbang, *et al*.," a case that had already attained finality. In their Special and Affirmative Defenses, respondents claimed that petitioners have no cause of action against them because the latter's claim of dowry or donation by reason of marriage was belied by the issuance of OCT No. RP-335 in Cota's name; that their claim of dowry or donation was not supported by any written memorandum or agreement and now barred under the Statute of frauds; that the action is barred by prescription or estoppel or laches; and, that the complaint violates the rule on judicial stability or rule on non-interference.

On March 6, 2006, the RTC issued its Order[5] with the following dispositive portion, to wit:

> The allegations contained in the Special and Affirmative Defenses are matters of evidence that can be properly ventilated in the trial of the case. The same is therefore denied for lack of merit. The parties are directed to submit their pre-trial brief at least 3 days before the scheduled pre-trial conference on April 6, 2006.
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> WHEREFORE, set the Pre-trial conference to April 6, at 9:00 o'clock in the morning.
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> SO ORDERED.[6]

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4 *Id.* at 75-82.
5 *Id.* at 114; Per Judge Santos B. Adiong.
6 *Id.*

On May 2, 2006, respondents filed a Manifestation[7] stating that they just received the RTC Order on April 17, 2006 and moved for time to file a motion for reconsideration and to defer the submission of pre-trial brief and the scheduled pre-trial conference. A motion for reconsideration[8] was filed on May 17, 2006. The motion for reconsideration was denied by the RTC in its Order[9] dated February 29, 2008.

On June 6, 2008, respondents filed with the CA Cagayan de Oro City, a petition for *certiorari* with prayer for issuance of a preliminary injunction. Petitioners filed their Comment and respondents their Reply thereto.

On July 2, 2010, the CA rendered its decision, the dispositive portion of which reads:

> **FOR THESE REASONS**, the writ of certiorari is GRANTED. The challenged Orders of the respondent court, dated March 6, 2006 and February 29, 2008, respectively, are **SET ASIDE**, and another Resolution/Order will be entered in Civil Case No. 2046-05 dismissing the Complaint.[10]

In so ruling, the CA found that the RTC had unduly disregarded the decision in Civil Case No. 2410 which had already attained finality; that it was already determined that the subject land was the very same land in Civil Case No. 2410 which was declared to be owned and lawfully possessed by Cota and to grant petitioners' demand would result to an unending litigation of the case. The CA found that *res judicata* applied in this case. The CA also found that the action had already prescribed as it took petitioners more than 26 years to institute the instant case.

Hence this petition wherein petitioners raise the following issues:

> 1. WHETHER OR NOT THE ASSAILED DECISION AND RESOLUTION OF THE COURT OF APPEALS, TWENTY SECOND DIVISION IS CONTRARY TO LAW AND JURISPRUDENCE;
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> 2. WHETHER OR NOT A MOTION FOR EXTENSION OF TIME TO FILE A MOTION FOR RECONSIDERATION IS ALLOWED OR A PROHIBITED PLEADING;

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7 *Id.* at 115-116 .
8 *Id.* at 117-122.
9 *Id.* at 135-136; Per Judge Jacob T. Malik.
10 *Id.* at 53. (Emphasis in the original)

> 3. WHETHER OR NOT THE SPECIAL AND AFFIRMATIVE DEFENSES OF THE RESPONDENTS EMBODIED IN THEIR ANSWER IN CIVIL CASE NO. 2046-05 ARE MATTERS OF EVIDENCE TO BE RESOLVED AFTER THE TRIAL OF THE CASE ON THE MERITS.[11]

Petitioners claim that respondents' counsel received the RTC Order dated March 6, 2006 denying their special and affirmative defenses on April 17, 2006, thus, they had until May 2, 2006 to file a motion for reconsideration. Respondents, however, filed a Manifestation with motion for extension of time to file a motion for reconsideration which is not allowed under the Rules of Court. Hence, the RTC Order dated March 6, 2006 had already become final and executory and could no longer be the subject of a petition for *certiorari* with the CA. Consequently, the CA erred in granting the petition and reversing the RTC Orders.

We find no merit in the arguments.

Section 1, Rule 41 of the Rules of Court provides:

> Section 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
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> No appeal may be taken from:
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> (a) An order denying a motion for new trial or reconsideration;
> (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
> (c) An interlocutory order;
> (d) An order disallowing or dismissing an appeal;
> (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
> (f) An order of execution;
> (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
> (h) An order dismissing an action without prejudice.
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> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

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[11] *Id.* at 33.

In *Denso (Phils.), Inc. v. Intermediate Appellate Court*,[12] we expounded on the differences between a "final judgment" and an "interlocutory order," to wit:

> x x x A final judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, *e.g.*, an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of *res judicata* or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move x x x and ultimately, of course, to cause the execution of the judgment once it becomes "*final*" or, to use the established and more distinctive term, "*final and executory*."
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> x x x x
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> Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory," *e.g.*, an order denying a motion to dismiss under Rule 16 of the Rules x x x Unlike a "final" judgment or order, which is appealable, as above pointed out, an "interlocutory" order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.[13]

Given the differences between a final judgment and an interlocutory order, the RTC Order dated March 6, 2006 denying respondents' special and affirmative defenses contained in their answer is no doubt interlocutory since it did not finally dispose of the case but will proceed for the reception of the parties' respective evidence to determine the rights and obligations of each other. As such, the RTC Order dated March 6, 2006 may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.[14]

An interlocutory order is always under the control of the court and may be modified or rescinded upon sufficient grounds shown at any time before final judgment.[15] This prescinds from a court's inherent power to control its process and orders so as to make them conformable to law and justice,[16] and a motion for reconsideration thereof was not subject to the limiting fifteen-day period of appeal prescribed for final judgments or

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12 232 Phil. 256 (1987) .

13 *Denso (Phils.), Inc. v. IAC, supra*, at 263-264. (Citations omitted).

14 *Investment, Inc. v. Court of Appeals*, 231 Phil. 302, 308 (1987).

15 *Ley Construction and Development Corporation v. Union Bank of the Philippines*, 389 Phil. 788, 795 (2000).

16 *Id.*

orders.[17] We, therefore, find no merit to petitioners' claim that the Order dated March 6, 2006 had already become final and could not be the subject of a petition for *certiorari* with the Court of Appeals.

The petition for *certiorari* was timely filed with the CA. The RTC Order dated February 29, 2008 denying respondents' motion for reconsideration was received by the latter on April 9, 2008. They had 60 days from receipt thereof to file the petition for *certiorari* with the CA. The last day to file the petition fell on June 8, 2008, a Sunday, while June 9 was declared a holiday, hence, the filing of the petition on the next working day which was June 10, 2008 was still on time.

Going now on the merits, petitioners claim that they did not violate the rule on judicial stability as the parties in the instant case and the earlier decided Civil Case No. 2410 of the RTC Lanao del Sur, Branch 9, are entirely different and petitioners were not parties in the latter case. There is no absolute identity of causes of action and the issues involved are not similar. The main issue in Civil Case No. 2410 was which of the two deeds of sale appeared to have been executed by Cota Dimaampao, *i.e.*, one in favor of Sheik Pangandaman Daromimbang (Timbang's brother) and the other one in favor of Alug, Balt and Pangarungan, now herein respondents, was really signed and executed by him. On the other hand, the main issue in the instant case is whether or not the subject land was given by Cota as a dowry to his ex-wife Timbang, if so, the land exclusively belongs to petitioners as compulsory heirs of Timbang and the sale made by Cota to respondents was void. In the alternative, even assuming that the subject land was not given as a dowry but acquired by the spouses Cota and Timbang during their marriage, petitioners contend that the subject land is a conjugal property to which Timbang is entitled to a ½ share thereof which Cota had no right to sell. Petitioners insist that respondents are buyers in bad faith as they were aware of the former's possession of the subject land at the time it was sold to them by Cota. These issues, as petitioners claim, are factual which can only be determined after a full blown trial.

We are not persuaded.

We find no error committed by the CA in ruling that the RTC committed a grave abuse of discretion in not dismissing petitioners' complaint on the ground that the issue of ownership and possession of the subject land had already been previously decided in Civil Case No. 2410 which had attained finality. We agree with the CA that *res judicata* is applicable in the instant case.

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17 *Denso Philippines, Inc. v. IAC*, 232 Phil. 256, 265 (1987).

Under the rule of *res judicata*, a final judgment or order on the merits, rendered by a court having jurisdiction of the subject matter and of the parties, is conclusive in a subsequent case between the same parties and their successors-in-interest by title subsequent to the commencement of the action or special proceeding litigating for the same thing and under the same title and in the same capacity.[18] To state simply, a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.[19]

The requisite essential of *res judicata* are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Should identity of parties, subject matter, and causes of action be shown in the two cases, then *res judicata* in its aspect as a "bar by prior judgment" would apply. If as between the two cases, only identity of parties can be shown, but not identical causes of action, then *res judicata* as "conclusiveness of judgment" applies.[20]

It is not disputed that the RTC Lanao del Sur, Branch 9, had jurisdiction over the subject matter and parties in Civil Case No. 2410 and its Decision dated November 21, 2000 was a judgment on the merits, *i.e.*, one rendered after the presentation of the parties' evidence during the trial of the case; and that such decision had already become final and executory and an entry of judgment had been made.[21]

Petitioners, however, claim that there is no identity of parties as they were not parties in Civil Case No. 2410. Petitioners are grandchildren of both Cota and Timbang Dimaampao, and as heirs, they are deemed in privity with their grandparents as to the property they would acquire by inheritance. Notably, Cota and Timbang's two daughters had never intervened during their lifetime to claim that the subject land was given as a dowry to their mother Timbang and that Cota had no right to sell the same and it was only now that petitioners as grandchildren who are claiming such. Since the decision in Civil Case No. 2410 had already ruled that Cota was the owner of the subject land and could validly convey the same to herein respondents, petitioners' claim of Timbang's ownership of the subject lot is already barred.

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18 *Firestone Ceramics, Inc. v. Court of Appeals*, G.R. No. 127022, September 2, 1999, 313 SCRA 522, 536.

19 *Antonio v. Sayman Vda. de Monje*, G.R. No. 149624, September 29, 2010, 631 SCRA 471, 479-480, citing *Agustin v. Delos Santos*, 596 Phil. 630, 641 (2009).

20 *Id.*

21 *Rollo*, pp. 110-111.

Petitioners further allege that there is no identity of causes of action between Civil Case No. 2410 and the instant case. One test of identity of causes of action is whether or not the judgment sought in a subsequent case will be inconsistent with the prior judgment. If no inconsistency will result, the prior judgment cannot be held to be a bar.[22]

Petitioners, in the instant case, raise the issue of Cota's ownership and possession of the subject land and the invalidity of respondents' deed of sale dated April 10, 1978. Notably, these issues were already resolved by RTC Lanao del Sur, Branch 9, in Civil Case No. 2410 where it declared that plaintiffs, Cota and herein respondents, are the true and lawful owners of the subject land. Such decision was affirmed by the CA on July 8, 2003[23] which made the following disquisition, among others, to wit:

> Since (Cota) Dimaampao is still the owner of the subject land, he could validly convey the same to his co-plaintiffs below **(herein respondents).** Dimaampao's ownership of the land in question coupled with his right to alienate the same necessarily renders moot and academic the issue of whether plaintiffs-appellees Alug, Pangarungan and Balt (**herein respondents)** are buyers in bad faith.
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> In any event, the purported bad faith of Alug, Pangarungan and Balt (**herein respondents**) is negated by the diligence they exercised in ascertaining Dimaampao's ownership of the disputed land at the time it was offered to them for sale. As testified to by Alug, he verified OCT No. RP-355 with the Register of Deeds and found out that the subject land is registered in the name of Dimaampao but encumbered by way of mortgage in favor of Luna. No other encumbrance or transfer is annotated on OCT No. RP-355. When Alug inspected the subject parcel of land, it was being cultivated by Soliman Bilao, the tenant of Dimaampao. Thus, he and Pangarungan and Balt concluded the sale with Dimaampao. x x x
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> Finally contrary to the contention of defendants-appellants, plaintiffs-appellees (herein respondents) are under no obligation to check the status of the subject property with (Sheik) Daromimbang, it being sufficient that they verified the title thereof with the Register of Deeds of Marawi City and conducted an ocular inspection thereon. The investigation they had diligently pursued to confirm the validity of Dimaampao's title effectively negates any bad faith in their purchase of the property.[24] (Emphasis supplied)

The CA decision became final with our denial of the petition for review on *certiorari* in G.R. No. 161438 on February 23, 2004 and an Entry of Judgment was made on April 22, 2004.[25] Consequently, the issue of Cota's

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22 *Swan v. Court of Appeals*, G.R. No. 97319, August 4, 1992, 212 SCRA 114.

23 Penned by Associate Justice Rebecca de Guia-Salvador, with Associate Justices Marina L. Buzon and Rosmari D. Carandang, concurring; *rollo*, pp. 100-108.

24 *Id*. at 107.

25 *Id*. at 110-111.

ownership and possession of the subject land as well as the validity of the 1978 deed of sale between Cota and herein respondents are already settled issues which could not be relitigated anew. When a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate.[26]

The validity of the 1978 deed of sale in respondents' favor had already been declared with finality, and if affirmative relief is granted to petitioners in the instant case, *i.e.*, by the annulment of the deed of sale, then the decision will necessarily be inconsistent with the prior judgment, substantial identity of causes of action is present.

We also agree with the CA's finding that petitioners' action had already prescribed. The subject land was bought by respondents from Cota as evidenced by a Deed of Sale dated April 10, 1978. Cota executed an Affidavit[27] of adverse claim attaching thereto the deed of sale and such affidavit was registered and annotated in OCT No. RP-335 on April 11, 1978. Article 1144 (1) of the Civil Code provides that an action upon a written contract must be brought within ten years from the time the right of action accrues. Here, the period of prescription should be counted from the time of the registration of sale which was a notice to all the world. The affidavit of adverse claim was annotated on OCT No. RP-335 on April 11, 1978,[28] thus petitioners' complaint filed only in 2005 is indeed beyond the prescriptive period to do so.

WHEREFORE, the petition for review is **DENIED**. The Decision dated July 2, 2010 and the Resolution dated July 27, 2011 issued by the Court of Appeals in CA -G.R. SP No. 02376-MIN are hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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26 *Church Assistance Program, Inc. v. Judge Sibulo*, 253 Phil. 404, 409 (1989).
27 *Rollo*, p. 405.
28 *Id.* at 68.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third 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