



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**NORA B. CALALANG-PARULAN  
and ELVIRA B. CALALANG,**  
Petitioners,

**G.R. No. 184148**

Present:

SERENO, C.J.,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

- versus -

**ROSARIO CALALANG-GARCIA,  
LEONORA CALALANG-SABILE,  
and CARLITO S. CALALANG,**  
Respondents.

Promulgated:

**JUN 09 2014**

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**DECISION**

**VILLARAMA, JR., J.:**

Before us is a petition for review on certiorari assailing the Decision<sup>1</sup> dated December 21, 2007 and Resolution<sup>2</sup> dated July 25, 2008 of the Thirteenth Division of the Court of Appeals (CA) in CA-G.R. CV No. 72531. The CA modified the Decision<sup>3</sup> dated July 10, 2001 of the Regional Trial Court (RTC), Branch 21, of Malolos, Bulacan, in Civil Case No. 370-M-91.

The facts, as culled from the records, follow:

In a Complaint<sup>4</sup> for Annulment of Sale and Reconveyance of Property filed with the RTC of Malolos, Bulacan on June 10, 1991, the respondents Rosario Calalang-Garcia, Leonora Calalang-Sabile, and Carlito S. Calalang asserted their ownership over a certain parcel of land against the petitioners Nora B. Calalang-Parulan and Elvira B. Calalang. The said lot with an area of 1,266 square meters and specifically identified as Lot 1132, Cad. 333, Bigaa Cadastre situated in Brgy. Buro 2<sup>nd</sup>, Municipality of Balagtas, Province of

<sup>1</sup> Rollo, pp. 25-34. Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Juan Q. Enriquez, Jr. and Vicente S. E. Veloso, concurring.

<sup>2</sup> Id. at 35-37.

<sup>3</sup> Id. at 54-60. Penned by Judge Cesar M. Solis.

<sup>4</sup> Records, pp. 3-7.

Bulacan, was allegedly acquired by the respondents from their mother Encarnacion Silverio, through succession as the latter's compulsory heirs.

According to the respondents, their father, Pedro Calalang contracted two marriages during his lifetime. The first marriage was with their mother Encarnacion Silverio. During the subsistence of this marriage, their parents acquired the above-mentioned parcel of land from their maternal grandmother Francisca Silverio. Despite enjoying continuous possession of the land, however, their parents failed to register the same. On June 7, 1942, the first marriage was dissolved with the death of Encarnacion Silverio.

On November 6, 1967, Pedro Calalang entered into a second marriage with Elvira B. Calalang who then gave birth to Nora B. Calalang-Parulan and Rolando Calalang. According to the respondents, it was only during this time that Pedro Calalang filed an application for free patent over the parcel of land with the Bureau of Lands. Pedro Calalang committed fraud in such application by claiming sole and exclusive ownership over the land since 1935 and concealing the fact that he had three children with his first spouse. As a result, on September 22, 1974, the Register of Deeds of Bulacan issued Original Certificate of Title (OCT) No. P-2871<sup>5</sup> in favor of Pedro Calalang only.

On February 17, 1984, Pedro Calalang sold the said parcel of land to Nora B. Calalang-Parulan as evidenced by a Deed of Sale<sup>6</sup> executed by both Pedro Calalang and Elvira B. Calalang. Accordingly, the Register of Deeds of Bulacan cancelled OCT No. P-2871 and issued Transfer Certificate of Title (TCT) No. 283321 in the name of Nora B. Calalang-Parulan. On December 27, 1989,<sup>7</sup> Pedro Calalang died.

The respondents assailed the validity of TCT No. 283321 on two grounds. First, the respondents argued that the sale of the land was void because Pedro Calalang failed to obtain the consent of the respondents who were co-owners of the same. As compulsory heirs upon the death of Encarnacion Silverio, the respondents claimed that they acquired successional rights over the land. Thus, in alienating the land without their consent, Pedro Calalang allegedly deprived them of their *pro indiviso* share in the property. Second, the respondents claimed that the sale was absolutely simulated as Nora B. Calalang-Parulan did not have the capacity to pay for the consideration stated in the Deed of Sale.

In their Answer,<sup>8</sup> the petitioners argued that the parcel of land was acquired during the second marriage of Pedro Calalang with Elvira B. Calalang. They stressed that OCT No. P-2871 itself stated that it was issued in the name of "Pedro Calalang, married to Elvira Berba [Calalang]." Thus, the property belonged to the conjugal partnership of the spouses Pedro

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<sup>5</sup> Id. at 8.

<sup>6</sup> Id. at 9.

<sup>7</sup> 1990 in the Complaint but see records, pp. 32 and 648.

<sup>8</sup> Records, pp. 32-34.

Calalang and Elvira B. Calalang. The petitioners likewise denied the allegation that the sale of the land was absolutely simulated as Nora B. Calalang-Parulan was gainfully employed in Spain at the time of the sale. Moreover, they alleged that the respondents did not have a valid cause of action against them and that their cause of action, if any, was already barred by laches, estoppel and prescription. By way of counterclaim, the petitioners also sought the payment to them of moral and exemplary damages plus costs of suit for the filing of the clearly unfounded suit.

On July 10, 2001, the trial court rendered decision in favor of the respondents. The dispositive portion of the RTC decision reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants in the following manner:

1. Ordering the defendants to reconvey in favor of the plaintiffs, their rightful share to three-fourth (3/4) of one-half (1/2) or a total of 474.75 square meters at 158.25 square meters for each of the three plaintiffs, namely: Rosario, Leonora, and Juanito all surname[d] Calalang, of the real property covered by TCT No. 283321 of the Registry of Deeds of Bulacan corresponding to their shares in the conjugal estate of the late Encarnacion S. Calalang [sic];

2. Ordering defendants to pay plaintiffs the amount of ₱50,000.00 for moral damages; ₱50,000.00 for attorney's fees and another ₱50,000.00 for litigation expenses.

3. Dismissing the defendants' counterclaims.

With costs against the defendants.

SO ORDERED.<sup>9</sup>

The trial court declared that the parcel of land was jointly acquired by the spouses Pedro Calalang and Encarnacion Silverio from the parents of the latter. Thus, it was part of the conjugal property of the first marriage of Pedro Calalang. When this marriage was dissolved upon the death of Encarnacion Silverio on June 7, 1942, the corresponding shares to the disputed property were acquired by the heirs of the decedent according to the laws of succession. In particular, the trial court allocated half of the disputed property to Pedro Calalang as his share in the conjugal partnership and allocated the other half to the three respondents and Pedro Calalang to be divided equally among them. The trial court then ordered all of Pedro's share to be given to Nora B. Calalang-Parulan on account of the sale. The trial court also ruled that because the application for free patent filed by Pedro Calalang was attended by fraud and misrepresentation, Pedro Calalang should be considered as a trustee of an implied trust.

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<sup>9</sup> *Rollo*, pp. 59-60.

Aggrieved by the adverse ruling, the petitioners appealed the case to the CA which rendered the assailed Decision on December 21, 2007. The dispositive portion of the CA decision reads,

**WHEREFORE**, in light of the foregoing premises, the **Decision** dated **July 10, 2001** of the Regional Trial Court of Malolos, Bulacan is hereby **MODIFIED** to read as follows:

*“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs, and against the defendants in the following manner:*

*1. Ordering the defendants to reconvey in favor of the plaintiffs, their rightful share to the property owned by their common father Pedro Calalang, equivalent to **one-half** (1/2) portion of the whole area or **633 square meters** to be divided equally by the three plaintiffs, namely: Rosario, Leonora and Carlito, all surnamed Calalang, each getting an area of **211 square meters** of the property covered by TCT No. 2883321 of the Registry of Deeds of Bulacan corresponding to their shares in the property of their late father Pedro Calalang;*

*2. Ordering defendants to pay plaintiffs the amount of P50,000.00 for moral damages; P50,000.00 for attorney’s fees and another P50,000.00 for litigation expenses.*

*3. Dismissing the defendants’ counterclaims.*

*With costs against the defendants.*

*SO ORDERED.*

**SO ORDERED.**<sup>10</sup>

The CA reversed the factual findings of the trial court and held that Pedro Calalang was the sole and exclusive owner of the subject parcel of land. Firstly, it held that there was insufficient evidence to prove that the disputed property was indeed jointly acquired from the parents of Encarnacion Silverio during the first marriage. Secondly, the CA upheld the indefeasibility of OCT No. P-2871. It held that although the free patent was issued in the name of “Pedro Calalang, married to Elvira Berba [Calalang]” this phrase was merely descriptive of the civil status of Pedro Calalang at the time of the registration of the disputed property. Thus, contrary to the ruling of the trial court, upon the death of Encarnacion Silverio on June 7, 1942, the respondents did not acquire any successional rights to the parcel of land which was exclusively owned by Pedro Calalang. However, applying the rules of succession, Pedro’s heirs namely, Rosario Calalang-Garcia, Leonora Calalang-Sabile, Carlito Calalang, Nora B. Calalang-Parulan, Elvira B. Calalang, and Rolando Calalang, succeeded Pedro to the land in equal shares upon his death. Thus, the CA ordered the petitioners to reconvey in favor of

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<sup>10</sup> Id. at 33.

the respondents their rightful shares to the land. The CA ruled that the sale by Pedro Calalang to Nora B. Calalang-Parulan was fraudulent and fictitious as the vendee was in bad faith and the respondents were unlawfully deprived of their *pro indiviso* shares over the disputed property. As regards the issue of prescription, the CA ruled that the prescriptive period for reconveyance of fraudulently registered real property is ten years. Since the property was registered in the name of Nora in 1984 and the action for reconveyance was filed in 1991, the action has not yet prescribed.

On January 23, 2008, petitioners filed their Motion for Reconsideration. The CA, however, denied their motion in its Resolution dated July 25, 2008.

Hence, this petition raising the sole issue:

Whether or not the *court a quo* gravely erred in rendering its December 21, 2007 Decision modifying the July 10, 2001 Decision of the *trial court*, and in issuing its July 25, 2008 Resolution denying petitioners' Motion for Reconsideration dated January 23, 2008.<sup>11</sup>

Essentially, the only issue in this case is whether Pedro Calalang was the exclusive owner of the disputed property prior to its transfer to his daughter Nora B. Calalang-Parulan.

The petitioners argue that the disputed property belonged to the conjugal partnership of the second marriage of Pedro Calalang with Elvira B. Calalang as evidenced by OCT No. P-2871 which was issued to Pedro Calalang during the subsistence of his marriage to Elvira B. Calalang. On the other hand, the respondents claim that the disputed property was transferred by their maternal grandmother, Francisca Silverio, to their parents, Pedro Calalang and Encarnacion Silverio, during the latter's marriage. Thus, the respondents argue that it belonged to the conjugal partnership of the first marriage of Pedro Calalang with Encarnacion Silverio.

The petition is meritorious.

Preliminarily, we note that the resolution of the issue in this case requires a reevaluation of the probative value of the evidence presented by the parties in order to trace the title of the disputed property. What is involved is indeed a question of fact which is generally beyond the jurisdiction of this Court to resolve in a petition for review on certiorari.<sup>12</sup> However, a recognized exception to the rule is when the RTC and CA have conflicting findings of fact as in this case.<sup>13</sup> Here, while the trial court ruled that the disputed property belonged to the conjugal partnership of the first

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<sup>11</sup> Id. at 16.

<sup>12</sup> See *Latorre v. Latorre*, G.R. No. 183926, March 29, 2010, 617 SCRA 88, 98-99.

<sup>13</sup> *Canadian Opportunities Unlimited, Inc. v. Dalangin, Jr.*, G.R. No. 172223, February 6, 2012, 665 SCRA 21, 31.

marriage of Pedro Calalang with Encarnacion Silverio, the court *a quo* declared that the evidence proved the sole and exclusive ownership of the disputed property of Pedro Calalang.

We have carefully reviewed the records of this case and sustain the finding of the CA that Pedro Calalang is the sole and exclusive owner of the disputed property.

The trial court ruled that the respondents were able to establish that Lot 1132, Cad. 333 originated from the parents of Encarnacion, and therefore said property “either became property of Encarnacion in her own right or jointly with her husband Pedro Calalang in 1936.” In so ruling, the trial court relied on the testimony of Rosario Calalang-Garcia that her parents built a nipa house on the subject lot and lived there before and after World War II. The trial court further noted that Rosario’s testimony was corroborated by her cousin and adjacent neighbor Manolo Calalang.<sup>14</sup>

However, as correctly pointed out by the CA, a close perusal of the records of this case would show that the records are bereft of any concrete proof to show that the subject property indeed belonged to respondents’ maternal grandparents. The evidence respondents adduced merely consisted of testimonial evidence such as the declaration of Rosario Calalang-Garcia that they have been staying on the property as far as she can remember and that the property was acquired by her parents through purchase from her maternal grandparents. However, she was unable to produce any document to evidence the said sale, nor was she able to present any documentary evidence such as the tax declaration issued in the name of either of her parents. Moreover, we note that the free patent was issued solely in the name of Pedro Calalang and that it was issued more than 30 years after the death of Encarnacion and the dissolution of the conjugal partnership of gains of the first marriage. Thus, we cannot subscribe to respondents’ submission that the subject property originally belonged to the parents of Encarnacion and was acquired by Pedro Calalang and Encarnacion.

We likewise cannot sustain the argument of the petitioners that the disputed property belongs to the conjugal partnership of the second marriage of Pedro Calalang with Elvira B. Calalang on the ground that the title was issued in the name of “Pedro Calalang, married to Elvira Berba [Calalang].”

The contents of a certificate of title are enumerated by Section 45 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree:

SEC. 45. *Statement of personal circumstances in the certificate.* – Every certificate of title shall set forth the full names of all persons whose interests make up the full ownership in the whole land, including their civil status, and the names of their respective spouses, if married, as well as their citizenship, residence and postal address. If the property covered

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<sup>14</sup> *Rollo*, p. 57.

belongs to the conjugal partnership, it shall be issued in the names of both spouses.

A plain reading of the above provision would clearly reveal that the phrase “Pedro Calalang, married to Elvira Berba [Calalang]” merely describes the civil status and identifies the spouse of the registered owner Pedro Calalang. Evidently, this does not mean that the property is conjugal. In *Litam v. Rivera*,<sup>15</sup> we declared:

Further strong proofs that the properties in question are the paraphernal properties of Marcosa Rivera, are the very Torrens Titles covering said properties. All the said properties are registered in the name of “Marcosa Rivera, married to Rafael Litam.” This circumstance indicates that the properties in question belong to the registered owner, Marcosa Rivera, as her paraphernal properties, for if they were conjugal, the titles covering the same should have been issued in the names of Rafael Litam and Marcosa Rivera. The words “married to Rafael Litam” written after the name of Marcosa Rivera, in each of the above mentioned titles are merely descriptive of the civil status of Marcosa Rivera, the registered owner of the properties covered by said titles.

It must likewise be noted that in his application for free patent,<sup>16</sup> applicant Pedro Calalang averred that the land was first occupied and cultivated by him since 1935 and that he had planted mango trees, coconut plants, caimito trees, banana plants and seasonal crops and built his house on the subject lot. But he applied for free patent only in 1974 and was issued a free patent while already married to Elvira B. Calalang. Thus, having possessed the subject land in the manner and for the period required by law after the dissolution of the first marriage and before the second marriage, the subject property *ipso jure* became private property and formed part of Pedro Calalang’s exclusive property.<sup>17</sup> It was therefore excluded from the conjugal partnership of gains of the second marriage.<sup>18</sup>

As the sole and exclusive owner, Pedro Calalang had the right to convey his property in favor of Nora B. Calalang-Parulan by executing a Deed of Sale on February 17, 1984. The CA therefore erred in ruling that Pedro Calalang deprived his heirs of their respective shares over the disputed property when he alienated the same.

It is hornbook doctrine that successional rights are vested only at the time of death. Article 777 of the New Civil Code provides that “[t]he rights to the succession are transmitted from the moment of the death of the decedent.” In *Butte v. Manuel Uy and Sons, Inc.*,<sup>19</sup> we proclaimed the fundamental tenets of succession:

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<sup>15</sup> 100 Phil. 364, 376 (1956).

<sup>16</sup> Records, p. 209.

<sup>17</sup> See *Susi v. Razon*, 48 Phil. 424, 428 (1925).

<sup>18</sup> NEW CIVIL CODE, Art. 148.

<sup>19</sup> 114 Phil. 443, 448-449 (1962).

The principle of transmission as of the time of the predecessor's death is basic in our Civil Code, and is supported by other related articles. Thus, the capacity of the heir is determined as of the time the decedent died (Art. 1034); the legitime is to be computed as of the same moment (Art. 908), and so is the inofficiousness of the donation *inter vivos* (Art. 771). Similarly, the legacies of credit and remission are valid only in the amount due and outstanding at the death of the testator (Art. 935), and the fruits accruing after that instant are deemed to pertain to the legatee (Art. 948).

Thus, it is only upon the death of Pedro Calalang on December 27, 1989 that his heirs acquired their respective inheritances, entitling them to their *pro indiviso* shares to his whole estate. At the time of the sale of the disputed property, the rights to the succession were not yet bestowed upon the heirs of Pedro Calalang. And absent clear and convincing evidence that the sale was fraudulent or not duly supported by valuable consideration (in effect an inofficious donation *inter vivos*), the respondents have no right to question the sale of the disputed property on the ground that their father deprived them of their respective shares. Well to remember, fraud must be established by clear and convincing evidence. Mere preponderance of evidence is not even adequate to prove fraud.<sup>20</sup> The Complaint for Annulment of Sale and Reconveyance of Property must therefore be dismissed.

**WHEREFORE**, the petition for review on certiorari is **GRANTED**. The Decision dated December 21, 2007 and Resolution dated July 25, 2008 of the Thirteenth Division of the Court of Appeals in CA-G.R. CV No. 72531 are **REVERSED** and **SET ASIDE**. Civil Case No. 370-M-91, or the Complaint for Annulment of Sale and Reconveyance of Property filed by the respondents with the Regional Trial Court, Branch 21 of Malolos, Bulacan, on June 10, 1991, is hereby **DISMISSED** for lack of merit.

No pronouncement as to costs.

**SO ORDERED.**

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
*Chairperson*

<sup>20</sup> *Maestrado v. CA*, 384 Phil. 418, 435 (2000).

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Bienvenido L. Reyes*  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the 1987 Constitution, 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*  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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