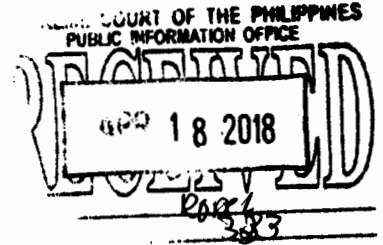




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

AMPARO S. CRUZ;
 ERNESTO HALILI;
 ALICIA H. FLORENCIO;
 DONALD HALILI;
 EDITHA H. RIVERA;
 ERNESTO HALILI, JR.; and
 JULITO HALILI,
Petitioners,

G.R. No. 211153

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM, JJ.

- versus -

ANGELITO S. CRUZ,
 CONCEPCION S. CRUZ,
 SERAFIN S. CRUZ, and
 VICENTE S. CRUZ,
Respondents.

Promulgated:

FEB 28 2018

X-----

DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*¹ seeks to set aside the June 25, 2013 Decision² and January 29, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV. No. 96345 which, respectively, granted herein respondents' appeal and reversed the June 1, 2010 Decision⁴ of the Regional Trial Court of San Mateo, Rizal, Branch 75 (RTC) in Civil Case No. 1380-98 SM, and denied petitioners' motion for reconsideration thereto.

Factual Antecedents

In an Amended Complaint⁵ filed on April 6, 1999 and docketed with the RTC as Civil Case No. 1380-98 SM, respondents Angelito S. Cruz, Concepcion S. Cruz (Concepcion), and Serafin S. Cruz alleged that they – together with their siblings, petitioner Amparo S. Cruz (Amparo) and Antonia Cruz (Antonia) –

¹ Rollo, pp. 6-24.
² Id. at 47-61; penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez.
³ Id. at 79-80.
⁴ Id. at 40-46; penned by Presiding Judge Manuel R. Taro.
⁵ Id. at 25-30.

inherited a 940-square-meter parcel of land (the subject property) from their late parents, spouses Felix and Felisa Cruz, which land was covered by Original Certificate of Title No. ON-658; that on July 31, 1986, the parties executed a deed of extrajudicial settlement of estate covering the subject property, on the agreement that each heir was to receive an equal portion of the subject property as mandated by law; that in 1998, when the subject property was being subdivided and the subdivision survey plan was shown to respondents, they discovered that Antonia was allocated two lots, as against one (1) each for the respondents; that Antonia's allocation of two lots contravened the agreement among the heirs that they would receive equal shares in the subject property; that Amparo and Antonia were able to perpetrate the fraud by inducing Concepcion – who was illiterate – to sign the deed of extrajudicial settlement of estate, which was written in the English language, without previously reading and explaining the contents thereof to the latter; that Amparo and Antonia fraudulently took advantage of Concepcion's ignorance and mental weakness, deceiving and cajoling her into signing the deed of extrajudicial settlement, to her damage and injury; and that Antonia passed away, but left as her heirs herein petitioners Ernesto Halili, Alicia H. Florencio, Donald Halili, Editha H. Rivera, Ernesto Halili, Jr. and Julito Halili, who are in possession of the two lots allocated to Antonia. Respondents thus prayed, as follows:

In view of the foregoing, it is respectfully prayed that after due hearing, judgment be rendered as follows:

1. Declaring null and void the extra-judicial settlement executed by the parties on July 31, 1986;
2. Declaring one of the lots adjudicated to defendant Antonia Cruz-Halili to the common fund;
3. For such other relief just and equitable under the circumstances;
4. To pay the cost of this suit.⁶

In their Answer,⁷ petitioners prayed for dismissal, claiming that the July 31, 1986 deed of extrajudicial settlement of estate had been voluntarily and freely executed by the parties, free from vitiated consent; that respondents' cause of action has prescribed; that the complaint failed to state a cause of action; and that no earnest efforts toward compromise have been made. By way of counterclaim, petitioners prayed for an award of moral and exemplary damages, attorney's fees, and costs of suit.

Ruling of the Regional Trial Court

After trial, the RTC rendered its Decision dated June 1, 2010, pronouncing

⁶ Id. at 28.

⁷ Id. at 31-38.



as follows:

From the foregoing, the main issue is whether or not the extrajudicial settlement is null and void on grounds of fraud, deceit, misrepresentation or mistake.

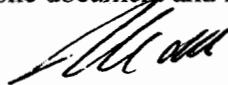
x x x x

Besides, while the Extra-Judicial Settlement was executed and signed on July 13, 1986⁸ x x x, and alleged fraud was discovered on May 12, 1986 when subdivision survey was conducted x x x and defendants started to build their houses x x x this petition was filed only on August 14, 1998 or more than 10 years from date of execution or date of discovery of alleged fraud. Under Art. 1144 Civil Code, actionable documents prescribes [sic] in 10 years. However, if a property is allegedly acquired thru fraud or mistake, the person obtaining it is, by force of law, considered an implied trustee for the benefit of the person deprived of it, in which case the action based thereon is 10 years from date of registration of the extra-judicial settlement or issuance of new certificate of title (Art. 1456 Civil Code x x x). Hence, this petition is not barred by prescription. As the period is not too long nor short, laches has not yet set in.

Moreover, fraud, as basis of the Complaint, is not delineated therein with particularity. Under Sec. 5 Rule 8, fraud must be alleged specifically, not generally. Nonetheless, apart from such allegations, no clear and convincing evidence was presented by plaintiffs. For one, while plaintiff Concepcion Cruz-Enriquez is admittedly only grade 3 and could hardly understand English as what is written in the extra-judicial settlement which was not even allegedly fully explained to her, it appears that she can absolutely read and write, and understand English albeit not fully. And as she is deeply interested in her inheritance share, she is aware of the import and consequences of what she executed and signed. For the past 10 years, there is no way she could feign ignorance of the alleged fraud and make passive reactions or complaint thereof. Being adversely interested in the property, her apprehensions were purely in the state of her mind, if not unilateral and afterthought.

Secondly, just like any other contracts, parties in an extra-judicial settlement are given wide latitude to stipulate terms and conditions they feel fair and convenient beneficial to one and prejudicial to the other. By tradition and good customs, equality is relaxed if only to buy peace, or out of compassion or courtesy. So long as not contrary to strict provisions of the law, the supremacy of contracts shall be respected.

Being consensual, extra-judicial settlement is deemed perfected once mutual consent is manifested. Notarization being a mere formality, whatever its infirmity cannot invalidate a contract but at most, merely ensue to administrative sanction on the part of their notary. Even so, unless a strong clear and convincing evidence is shown, a document, one appeared notarized [sic], becomes a public document. As between a public document and mere allegations of plaintiffs, the former prevails x x x.



⁸ Should be "July 31, 1986."

Thirdly, for the past 10 years from 1996 [sic] when they forged an extra-judicial settlement and defendants admittedly started constructing their house and even made a subdivision survey, plaintiffs also occupied their allotted lots but never complain [sic] and even attended their reunions x x x. Other heirs also waived or sold shares to Amparo and Antonia Cruz x x x. Parties were even unified and unanimous in surrendering dominion of their parents' ancestral house in favor of Antonia Cruz alone x x x. As such, two lots would necessarily accrue to Antonia Cruz, and only one lot each should belong to other heirs. If the heirs are contented and unanimously conformable, it is quite absurd that only plaintiff Concepcion Cruz-Enriquez was disagreeable and yet, after the lapse of 10 years. Her conduct then belies her present claim of being defrauded and prejudiced x x x. And in the interpretation of stipulations, clarification may be had from such subsequent acts of the parties x x x. Even so, in case of conflict or dual interpretations, its validity shall be preferred x x x.

Fourthly, other than simply alleging that her sisters Amparo Cruz and Antonia Cruz prepared the extra-judicial settlement, and made a house-to-house visit to have it signed by their brothers and sisters including plaintiff Concepcion Cruz-Enriquez, no other independent facts aliunde has [sic] been adduced to substantiate or the least corroborate actual fraud. Fraud cannot be presumed. It must be proven. Mere allegation is not evidence. Rather, if ever both defendants were eager to have it signed, their motive appears to be solely to reduce in writing their imperfect title over a thing already pre-owned.

Peremptorily, following the tenet "allegata et non probata," he who alleges has the burden of proof. Thus, the burden of proof lies on the pleader. He cannot be allowed to draw preponderance of evidence on the weakness of the respondent. Otherwise, the relief being sought must necessarily fail x x x Hence, this case must be dismissed.

And as plaintiffs filed this petition relying on their unilateral perception that plaintiff Concepcion Cruz-Enriquez was prejudiced by the 2 lots for defendant Antonia Cruz, they and defendants shall each bear their own costs of litigation and defense.

WHEREFORE, premises considered, the Complaint is hereby ordered *DISMISSED*. Costs de-officio.

SO ORDERED.⁹ (Citations omitted)

Ruling of the Court of Appeals

Respondents appealed before the CA, which completely reversed and set aside the RTC's judgment and the parties' deed of extrajudicial settlement. The appellate court held:

The sole issue in this case is whether the consent given by appellant Concepcion to the subject extrajudicial settlement of estate was given voluntarily.



⁹ *Rollo*, pp. 43-46.

We hold that it was not.

Although the action commenced by appellants before the trial court was a declaration of nullity of the deed of extrajudicial settlement of estate, the case was clearly an action to annul the same. A distinction between an action for annulment and one for declaration of nullity of an agreement is called for.

An action for annulment of contract is one filed where consent is vitiated by lack of legal capacity of one of the contracting parties, or by mistake, violence, intimidation, undue influence or fraud. By its very nature, annulment contemplates a contract which is *voidable*, that is, valid until annulled. Such contract is binding on all the contracting parties until annulled and set aside by a court of law. It may be ratified. An action for annulment of contract has a four-year prescriptive period.

On the other hand, an action for declaration of nullity of contract presupposes a *void* contract or one where all of the requisites prescribed by law for contracts are present but the cause, object or purpose is contrary to law, morals, good customs, public order or public policy, prohibited by law or declared by law to be void. Such contract as a rule produces no legal and binding effect even if it is not set aside by direct legal action. Neither may it be ratified. An action for the declaration of nullity of contract is imprescriptible.

The appellants' pleading was for declaration of nullity of the deed of extrajudicial settlement of estate. However, this did not necessarily mean that appellants' action was dismissible.

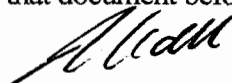
Granting that the action filed by appellants was incompatible with their allegations, it is not the caption of the pleading but the allegations that determine the nature of the action. The court should grant the relief warranted by the allegations and the proof even if no such relief is prayed for. In this case, the allegations in the pleading and the evidence adduced point to no other remedy but to annul the extrajudicial settlement of estate because of vitiated consent.

The essence of consent is the agreement of the parties on the terms of the contract, the acceptance by one of the offer made by the other. It is the concurrence of the minds of the parties on the object and the cause which constitutes the contract. The area of agreement must extend to all points that the parties deem material or there is no consent at all.

To be valid, consent must meet the following requisites: (a) it should be intelligent, or with an exact notion of the matter to which it refers; (b) it should be free; and (c) it should be spontaneous. Intelligence in consent is vitiated by error; freedom by violence, intimidation or undue influence; and spontaneity by fraud.

Here, appellant Concepcion clearly denied any knowledge of the import and implication of the subject document she signed, the subject extra-judicial settlement. She asserted that she does not understand English, the language in which the terms of the subject document she signed was written. To quote a part of her testimony, translated in English, as follows:

Q: Did you have occasion to read that document before you affixed your signature on it?



A: The document was written in English and me as well as my brothers and sisters, we trusted our younger sister, sir.

Q: That is why you signed the document even though you did not understand the same?

A: Yes, sir.

Court:

Did you not ask your younger sister Amparo to read this document considering it was in English? I will reform the question.

Q: But you don't know how to read English?

A: No, your Honor.

Q: When you saw that the document was in English, did you not ask your younger sister to read the document before you affixed your signature?

A: No, your Honor.

Q: Why did you not ask Amparo to read the document to you considering that it was in English and you don't understand English?

A: *Parti-partihan daw po at nagtiwala ako*, your Honor.

Appellant Concepcion invoked Articles 24 and 1332 of the Civil Code of the Philippines, which provide:

ART. 24. In all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection.

ART. 1332. When one of the parties is unable to read, or if the contract is in a language not understood by him, and mistake or fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former. x x x

Article 1332 was a provision taken from [A]merican law, necessitated by the fact that there continues to be a fair number of people in this country without the benefit of a good education or documents have been written in English or Spanish. The provision was intended to protect a party to a contract disadvantaged by illiteracy, ignorance, mental weakness or some other handicap. It contemplates a situation wherein a contract is entered into but the consent of one of the contracting parties is vitiated by mistake or fraud committed by the other.

Thus, in case one of the parties to a contract is unable to read and fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former. Where a party is unable to read, and he expressly pleads in his reply that he signed the voucher in question 'without



knowing its contents which have not been explained to him,' this plea is tantamount to one of mistake or fraud in the execution of the voucher or receipt in question and the burden is shifted to the other party to show that the former fully understood the contents of the document; and if he fails to prove this, the presumption of mistake (if not fraud) stands un rebutted and controlling.

Here, at the time appellant Concepcion signed the document in question, she was with appellee Amparo. Appellant could not possibly have read the contents of the extra-judicial settlement and could not have consented to a contract whose terms she never knew nor understood. It cannot be presumed that appellant Concepcion knew the contents of the extra-judicial settlement. Article 1332 of the Civil Code is applicable in these circumstances.

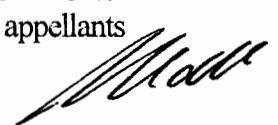
Although under Art. 1332 there exists a *presumption of mistake or error* accorded by law to those who have not had the benefit of a good education, one who alleges any defect or the lack of a valid consent to a contract must establish the same by full, clear and convincing evidence, not merely by preponderance of evidence. Hence, even as the burden of proof shifts to the defendants x x x to rebut the *presumption of mistake*, the plaintiff x x x who allege(s) such mistake (or fraud) must show that his personal circumstances warrant the application of Art. 1332.

In this case, the presumption of mistake or error on the part of appellant Concepcion was not sufficiently rebutted by appellees. Appellees failed to offer any evidence to prove that the extrajudicial settlement of estate was explained in a language known to the appellant Concepcion, *i.e.* in Pilipino. Clearly, appellant Concepcion, who only finished Grade 3, was not in a position to give her free, voluntary and spontaneous consent without having the document, which was in English, explained to her in the Pilipino. She stated in open court that she did not understand English. Her testimony as quoted above is instructive.

Due to her limited educational attainment, appellant Concepcion could not understand the document in English. She wanted to seek assistance. However, due to the misrepresentation, deception and undue pressure of her sister appellee Amparo, petitioner signed the document. Appellant Concepcion was assured that she would receive her legitimate share in the estate of their late parents.

Later on, appellant Concepcion found out that appellee Antonia received two (2) lots compared to her siblings, including appellant Concepcion, who respectively received one (1) lot each. This was a substantial mistake clearly prejudicial to the substantive interests of appellant Concepcion in her parent's estate. There is no doubt that, given her lack of education, appellant Concepcion is protected by Art. 1332 of the Civil Code. There is reason to believe that, had the provisions of the extrajudicial agreement been explained to her in the Pilipino language, she would not have consented to the significant and unreasonable diminution of her rights.

Atty. Edgardo C. Tagle, the officer who notarized the extrajudicial settlement did not state that he explained the contents to all the parties concerned. The records or the subject document for that matter, do not reflect that he explained the contents of the document to appellant Concepcion nor to the other parties in a language or dialect known to all of them. Significantly, the appellants even denied their presence during the notarization of the document.



Therefore, the presumption of mistake under Article 1332 is controlling, having remained unrebutted by appellees. The evidence proving that the document was not fully explained to appellant Concepcion in a language known to her, given her low educational attainment, remained uncontradicted by appellees x x x the consent of petitioner was invalidated by a substantial mistake or error, rendering the agreement voidable. The deed of extrajudicial settlement between appellants and appellees should therefore be annulled and set aside on the ground of mistake.

In *Rural Bank of Caloocan, Inc. v. Court of Appeals*, the Supreme Court ruled that a contract may be annulled on the ground of vitiated consent, even if the act complained of is committed by a third party without the connivance or complicity of one of the contracting parties. It found that a substantial mistake arose from the employment of fraud or misrepresentation. The plaintiff in that case was a 70-year old unschooled and unlettered woman who signed an unauthorized loan obtained by a third party on her behalf. The Court annulled the contract due to a substantial mistake which invalidated her consent.

By the same reasoning, if it is one of the contracting parties who commits the fraud or misrepresentation, such contract may all the more be annulled due to substantial mistake.

In *Remalante v. Tibe*, the Supreme Court ruled that misrepresentation to an illiterate woman who did not know how to read and write, nor understand English, is fraudulent. Thus, the deed of sale was considered vitiated with substantial error and fraud. x x x

x x x x

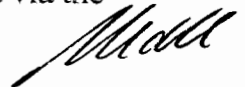
Evidently, the applicable prescriptive period to institute the action to annul the deed of extrajudicial settlement was four (4) years counted from the discovery of fraud as held in the case of *Gerona v. De Guzman*.¹⁰ The records show that appellants' complaint was filed on 17 August 1998 or twelve (12) years from the execution of the deed. However, as appellants are deemed to have obtained constructive notice of the fraud upon the publication of the same in a newspaper on June 5, 10 and 27, 1995, this Court rules that the present action has not prescribed.

Based on the foregoing, the trial court erred in ruling as it did.

WHEREFORE, premises considered, the appealed Decision dated 1 June 2010 of the Regional Trial Court (RTC), Branch 75, San Mateo, Rizal is REVERSED. The extrajudicial settlement of the estate of Felix Cruz is hereby ANNULLED and SET ASIDE.

SO ORDERED.¹¹ (Other citations omitted)

Petitioners filed their Motion for Reconsideration, which was denied via the second assailed January 29, 2014 Resolution. Hence, the instant Petition.



¹⁰ 120 Phil. 149 (1964).

¹¹ *Rollo*, pp. 52-60.

In a November 9, 2015 Resolution,¹² this Court resolved to give due course to the Petition.

Issues

Petitioners claim that the CA erred in ruling that the respondents' cause of action for annulment has not prescribed, and that it ignored contemporaneous and subsequent acts of respondents indicating the absence of fraud or vitiation of consent in the execution of the deed of extrajudicial settlement of the estate of Felix Cruz.

Petitioners' Arguments

In their Petition and Reply¹³ seeking reversal of the assailed CA dispositions, petitioners essentially insist that respondents' cause of action for annulment has prescribed, since they filed Civil Case No. 1380-98 SM only in 1998, or 12 years after the execution of the deed of extrajudicial settlement of estate on July 31, 1986; that pursuant to Article 1144 of the Civil Code,¹⁴ a cause of action based upon a written contract – such as the subject deed of extrajudicial settlement – must be brought within 10 years from the execution thereof; that even assuming that the four-year prescriptive period based on fraud applies as the CA ruled, respondents' cause of action already prescribed, as the case was filed only in 1998, while the supposed fraud may be said to have been discovered in 1986, when they learned of the survey being conducted on the subject property; that respondents' actions belied their claim, in that they did not object when petitioners built their home on the lots allotted to them and never registered any objection even during family gatherings and occasions; that the subject deed of extrajudicial settlement – being a notarized document – enjoys the presumption of regularity and integrity, and may only be set aside by clear and convincing evidence of irregularity; that it is a matter of judicial notice that a pre-war third-grader has the education of a high school student; and that the findings of the trial court must be given weight and respect.

Respondents' Arguments

In their Comment¹⁵ seeking denial of the Petition, respondents reiterate the correctness of the CA's assailed Decision; that the deed of extrajudicial settlement,

¹² Id. at 123-124.

¹³ Id. at 113-121.

¹⁴ Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:
(1) Upon a written contract;
(2) Upon an obligation created by law;
(3) Upon a judgment.

¹⁵ *Rollo*, pp. 95-106.



being written in English, was calculated to defraud Concepcion – who could not read nor write in said language; that owing to the fact that she trusted petitioners, who were her sisters, she was cajoled into signing the deed without knowing its contents; that the deed was notarized in the absence of most of the parties thereto; that the prescriptive period to be applied is not the 10-year period under Article 1144, but the four-year period as held by the CA, to be computed from the discovery of the fraud – since respondents discovered the fraud only in 1998; and that the factual issues raised by petitioners have been passed upon by the CA, and are thus not reviewable at this stage.

Our Ruling

The Court denies the Petition.

The present action involves a situation where one heir was able – through the expedient of an extrajudicial settlement that was written in a language that is not understood by one of her co-heirs – to secure a share in the estate of her parents that was greater than that of her siblings, in violation of the principle in succession that heirs should inherit in equal shares.

Thus, Antonia – represented in this case by her surviving heirs – received two lots as against her siblings, including respondent Concepcion, who respectively received only one lot each in the subject 940-square-meter property. This she was able to achieve through the subject 1986 deed of extrajudicial settlement – which was written in English, a language that was not known to and understood by Concepcion given that she finished only Grade 3 elementary education. With the help of Amparo, Antonia was able to secure Concepcion's consent and signature without the benefit of explaining the contents of the subject deed of extrajudicial settlement. For this reason, Concepcion did not have adequate knowledge of the contents and ramifications of the subject deed of extrajudicial settlement; she was left unaware of the sharing arrangement contained therein, and realized it only when Antonia attempted to subdivide the subject property in 1998, and the plan of subdivision survey was shown to Concepcion – which revealed that Antonia obtained two lots. Consequently, Concepcion filed Civil Case No. 1380-98 SM on August 17, 1998.

In short, this is a simple case of exclusion in legal succession, where co-heirs were effectively deprived of their rightful share to the estate of their parents – who died without a will – by virtue of a defective deed of extrajudicial settlement or partition which granted a bigger share to one of the heirs and was prepared in such a way that the other heirs would be effectively deprived of discovering and knowing its contents.



Under the law, “[t]he children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares.”¹⁶ In this case, two of Concepcion’s co-heirs renounced their shares in the subject property; their shares therefore accrued to the remaining co-heirs, in equal shares as well.¹⁷

In *Bautista v. Bautista*,¹⁸ it was held that —

As gathered from the above-quoted portion of its decision, the Court of Appeals applied the prescriptive periods for annulment on the ground of fraud and for reconveyance of property under a constructive trust.

The extra-judicial partition executed by Teofilos co-heirs was invalid, however. So *Segura v. Segura*¹⁹ instructs:

x x x 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 extra-judicial 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 x x x

The deed of extra-judicial partition in the case at bar being invalid, the action to have it annulled does not prescribe.

The above pronouncement was reiterated in *Neri v. Heirs of Hadji Yusop Uy*,²⁰ where the Court ruled:

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:



¹⁶ CIVIL CODE, Article 980.

¹⁷ CIVIL CODE, Article 1015. Accretion is a right by virtue of which, when two or more persons are called to the same inheritance, devise or legacy, the part assigned to the one who renounces or cannot receive his share, or who died before the testator, is added or incorporated to that of his co-heirs, co-devisees, or co-legatees.

Article 1018. In legal succession the share of the person who repudiates the inheritance shall always accrue to his co-heirs.

Article 1019. The heirs to whom the portion goes by the right of accretion take it in the same proportion that they inherit.

Article 1020. The heirs to whom the inheritance accrues shall succeed to all the rights and obligations which the heir who renounced or could not receive it would have had.

¹⁸ 556 Phil. 40, 46 (2007).

¹⁹ 247-A Phil. 449, 456 (1988).

²⁰ 697 Phil. 217, 225-230 (2012).

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. x x x

The effect of excluding the heirs in the settlement of estate was further elucidated in *Segura v. Segura*, 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 death and that, as owners thereof, they can very well sell their undivided share in the estate.

x x x x

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 Eutopia, Victoria and Douglas, who were deprived of their lawful participation in the subject estate. Besides, an ‘action or defense for the declaration of the inexistence of a contract does not prescribe’ in accordance with Article 1410 of the Civil Code. (Citations omitted)

Then again, in *The Roman Catholic Bishop of Tuguegarao v. Prudencio*,²¹ the above pronouncements were echoed, thus:

Considering that respondents-appellees have **neither knowledge nor participation in the Extra-Judicial Partition, the same is a total nullity.** It is

²¹ G.R. No. 187942, September 7, 2016, 802 SCRA 319, 331-332.



not binding upon them. Thus, in *Neri v. Heirs of Hadji Yusop Uy*, which involves facts analogous to the present case, we ruled that:

[I]n 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.

x x x

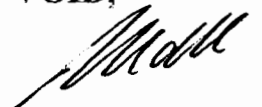
The effect of excluding the heirs in the settlement of estate was further elucidated in *Segura v. Segura*, thus:

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 x x x (Emphasis supplied; citations omitted)

Thus, while the CA was correct in ruling in favor of Concepcion and setting aside the subject deed of extrajudicial settlement, it erred in appreciating and ruling that the case involved fraud – thus applying the four-year prescriptive period – when it should have simply held that the action for the declaration of nullity of the defective deed of extrajudicial settlement does not prescribe, under the circumstances, given that the same was a total nullity. Clearly, the issue of literacy is relevant to the extent that Concepcion was effectively deprived of her true inheritance, and not so much that she was defrauded.

With the foregoing disposition, the other issues raised by the petitioners are deemed resolved.


WHEREFORE, the Petition is **DENIED**. The subject July 31, 1986 Extrajudicial Settlement of Estate is hereby **DECLARED NULL AND VOID**, and thus **ANNULLED** and **SET ASIDE**. Costs against the petitioners.



SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


FRANCIS H. JARBELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 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
Chief Justice