



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

HEIRS OF ESPIRITA\* TABORA- G.R. No. 205448  
MABALOT, RODOLFO  
TABORA, and TERESITA Present:  
MABALOT, namely: MARILOU  
MABALOT, JOSEPHINE PERLAS-BERNABE, S.A.J.,  
MABALOT, and MARISSA Chairperson,  
MABALOT, Petitioners, HERNANDO,  
INTING,  
DELOS SANTOS, and  
BALTAZAR-PADILLA, \*\* JJ.

- versus -

LORETO GOMEZ, JR.,  
CATHERINE GOMEZ, and Promulgated:  
NEIL GOMEZ,  
Respondents.

07 OCT 2020

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R E S O L U T I O N

INTING, J.:

Before the Court is a Petition for Review<sup>1</sup> on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated June 26, 2012 and the Resolution<sup>3</sup> dated December 17, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 95434. In the assailed issuances, the CA reversed and set aside the Decision<sup>4</sup> of Branch 63, Regional Trial Court (RTC), La Trinidad, Benguet in Civil Case No. 05-CV-2116.

\* Referred to as "Esperita" in some parts of the *rollo*.

\*\* On leave.

<sup>1</sup> *Rollo*, pp. 9-24.

<sup>2</sup> *Id.* at 26-55; penned by Associate Justice Leoncia R. Dimayuga with Associate Justices Normandie B. Pizarro and Stephen C. Cruz, concurring.

<sup>3</sup> *Id.* at 57-58.

<sup>4</sup> *Id.* at 72-86; penned by Presiding Judge Benigno M. Galacgac.

*The Antecedents*

Siblings Balbina, Espirita, Teresita, and Rodolfo, all surnamed Tabora (Tabora Siblings) were co-owners of a 5,450 square-meter parcel of land located in Pico, La Trinidad, Benguet, covered by Transfer Certificate of Title (TCT) No. T-5690 (subject land).<sup>5</sup>

Balbina had three children with Loreto Gomez, Sr., namely: herein respondents Loreto, Jr., Catherine, and Neil, all surnamed Gomez (Gomez Siblings).<sup>6</sup> Prior to Balbina's passing on February 1, 1991, Espirita, Teresita, and Rodolfo executed separate Affidavits of Waiver conveying their individual co-ownership share in the subject land to Catherine, Loreto, Jr., and Neil, respectively,<sup>7</sup> in exchange of a consideration amounting to ₱50,000.00 per share.<sup>8</sup>

*First Civil Case*

After Balbina passed away, Espirita and Teresita filed a complaint before Branch 10, RTC, La Trinidad, Benguet docketed as Civil Case No. 92-CV-0753 against the Gomez Siblings seeking for the partition of the subject land and annulment of the Affidavits of Waiver.<sup>9</sup> In a Decision dated October 28, 1994, the RTC dismissed the complaint for lack of merit, terminating the co-ownership over the subject land. It ruled as follows:

"In fine, this Court believes and so holds that the money paid to the plaintiffs was in consideration for the purchase of their respective shares in the property co-owned. *There indeed was a sale consummated which had the effect of terminating the co-ownership as between them and the other co-owners.* Their claim for partition, therefore has to be denied."<sup>10</sup> (Italics supplied.)

<sup>5</sup> *Id.* at 28-29.

<sup>6</sup> *Id.* at 29.

<sup>7</sup> *Id.* at 36.

<sup>8</sup> *Id.* at 85.

<sup>9</sup> *Id.* at 30.

<sup>10</sup> *Id.*

The counsel for therein plaintiffs Espirita and Teresita received a copy of the above-quoted Decision on November 8, 1994. The case was not appealed, causing the Decision to lapse into finality.<sup>11</sup>

*Second Civil Case*

The subject land remained registered under the Tabora Siblings' names as co-owners (TCT No. T-5690)<sup>12</sup> even after Espirita, Teresita, and Rodolfo's deaths.<sup>13</sup>

In May 2005, relying on the RTC decision in Civil Case No. 92-CV-0753, which declared them as the lawful purchasers of Espirita, Teresita, and Rodolfo's respective co-ownership shares, the Gomez Siblings filed an action for reconveyance/recovery of ownership, cancellation of certificate of title, specific performance with damages against the heirs of Espirita, herein petitioners Marilou, Edwin, and Marissa, all surnamed Mabalot (Mabalot Siblings) before Branch 63, RTC, La Trinidad, Benguet. The case was docketed as Civil Case No. 05-CV-2116.<sup>14</sup>

The Gomez siblings sought for the following reliefs: *first*, to be declared as the true and lawful owners of Espirita, Teresita, and Rodolfo's co-ownership shares over the subject land. *Second*, for TCT No. T-5690 to be cancelled and a new title be issued in their names. *Third*, to have the Mabalot Siblings execute a document ceding Espirita, Teresita, and Rodolfo's co-ownership shares in their favor. *Fourth*, to be remunerated for moral damages, exemplary damages, and attorney's fees.<sup>15</sup>

In their defense, the Mabalot Siblings argued as follows: *first*, the action was premature, having been filed without first complying with Article 222<sup>16</sup> of the Civil Code. *Second*, the Affidavit of Waivers were

<sup>11</sup> *Id.* at 49.

<sup>12</sup> *Id.* at 74.

<sup>13</sup> *Id.* at 30-31; Rodolfo, Teresita, and Esperita died on July 7, 2000, July 13, 2000, and July 29, 2004, respectively.

<sup>14</sup> *Id.* at 72.

<sup>15</sup> *Id.* at 73-74.

<sup>16</sup> Article 222 of the Civil Code provides: "No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward a compromise have been made,

void because these were executed without: (1) compliance with the prescribed form; (2) the co-owners' consent; and (3) obtaining confirmation from the National Commission on Indigenous Peoples (NCIP), a requirement for property transfers involving members of a cultural minority.<sup>17</sup> *Third*, the subject land remained undivided. Thus, even assuming that the affidavits were valid, they were nonetheless entitled to exercise their right of redemption and pre-emption in relation to the portions pertaining to Rodolfo and Teresita's shares.<sup>18</sup>

### *The RTC Ruling*

In the Decision dated June 2, 2010, the RTC ruled against the Gomez Siblings' complaint, *viz.*:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the defendants and against the plaintiffs as follows:

*Declaring the property covered by Transfer Certificate of Title No. T-5690 as co-owned by the late Balbina, Teresita, Espirita and Rodolfo, all surnamed Tabora and,*

Ordering the defendants to return or reimburse the plaintiffs of the total amount of P150,000.00 which the late Teresita, Espirita and Rodolfo, all surnamed Tabora separately received from the plaintiffs.

SO ORDERED.<sup>19</sup> (Italics supplied.)

In ruling in favor of the Mabalot Siblings, the RTC declared the Affidavits of Waiver as unenforceable contracts based on the following reasons: *first*, during trial, the plaintiffs, through their witness Loreto, Sr., admitted that the parties (*i.e.*, Tabora Siblings and their successors-in-interest, the Gomez and Mabalot Siblings), including himself, are members of the *Ibaloi* tribe. Thus, the Affidavits of Waiver should have been submitted to the NCIP for appropriate action prior to execution.<sup>20</sup> *Second*, the consideration given by the Gomez Siblings in exchange of Espirita, Teresita, and Rodolfo's co-ownership shares (P50,000.00 per

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but that the same have failed, subject to the limitations in Article 2035.”.

<sup>17</sup> *Rollo*, p. 31.

<sup>18</sup> *Id.* at 75.

<sup>19</sup> *Id.* at 86.

<sup>20</sup> *Id.* at 85.

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share) was “too meager” and did not commensurate the actual value of property ceded to them. *Third*, Loreto, Sr. also admitted that he personally drafted and prepared the Affidavits of Waiver, brought them to Esperita, Teresita, and Rodolfo for signature, and had the documents notarized thereafter.<sup>21</sup>

As a consequence thereof, the RTC reinstated the Tabora Siblings’ co-ownership over the subject land<sup>22</sup> in contrast to the decision in Civil Case No. 92-CV-0753.<sup>23</sup>

Aggrieved, the Gomez Siblings appealed the decision to the CA.

#### *The CA Ruling*

In its assailed Decision, the CA granted the Gomez Siblings’ appeal, *viz.*:

WHEREFORE, in view of the foregoing, the Decision of the RTC Branch 63 of La Trinidad, Benguet docketed as Civil Case No. 05-CV-2116 dated June 2, 2010 is hereby REVERSED and SET ASIDE. The decision in Civil Case No. 92-CV-0753 dated October 28, 1994 rendered by RTC Branch 10 of La Trinidad[,] Benguet is hereby REINSTATED and should be carried into effect. Plaintiffs-appellants Catherine Gomez, Loreto Gomez, Jr., and Neil Gomez are now declared the true and lawful owners of the co-ownership shares of Esperita Tabora-Mabalot, Teresita Tabora and Rodolfo Tabora, respectively, of that land covered by TCT No. T-5690 located in La Trinidad, Benguet. The public defendant Registry of Deeds for the Province of Benguet is hereby ordered to cancel TCT No. [T-]5690 and issue a new title in its stead in the names of Balbina Tabora, Loreto Gomez[,] Jr. and Catherine Gomez and Neil Gomez as co-owners thereof.

SO ORDERED.<sup>24</sup>

The CA pointed out that the land in dispute in the present case was the subject of Civil Case No. 92-CV-0753. In the first civil case, the RTC already declared the Gomez Siblings as the lawful purchasers of

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 86.

<sup>23</sup> *Id.* at 28.

<sup>24</sup> *Id.* at 54.

Espirita, Teresita, and Rodolfo's co-ownership shares and dissolved the co-ownership over the subject land.<sup>25</sup> The Decision was not appealed. Hence, it became final and executory. The RTC in Civil Case No. 05-CV-2116 erred when it invalidated the Affidavits of Waiver, contrary to the first RTC Decision.<sup>26</sup> There was no reason to once more rule on the merits of the case.<sup>27</sup>

The Mabalot Siblings moved for reconsideration, but the CA denied it.<sup>28</sup>

Hence, the present petition.

#### *Petitioners' Arguments*

Petitioners recognized that the RTC in Civil Case No. 92-CV-0753 dated October 28, 1994, terminated the co-ownership among the Tabora siblings over the subject land and denied partition thereof. They also admitted that there was no appeal taken from the decision and it became final and executory on November 23, 1994.<sup>29</sup>

However, Gomez Siblings did not pursue the execution of the earlier decision either by motion within five years or by independent action reviving the judgment within ten years from its finality. Thus, the decision "has since become a stale judgment that can no longer be enforced."<sup>30</sup> Furthermore, the respondents were guilty of laches. They were presumed to have abandoned their right or declined to assert it.<sup>31</sup>

Ultimately, petitioners maintained that a sale of real property must be made through a public instrument. Inasmuch as the Affidavits of Waiver were private documents, the RTC in Civil Case No. 05-CV-2116 correctly declared these as unenforceable.

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<sup>25</sup> *Id.* at 46.

<sup>26</sup> *Id.* at 50.

<sup>27</sup> *Id.* at 51.

<sup>28</sup> *Id.* at 57-58.

<sup>29</sup> *Id.* at 15.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 16.

The petitioners also pointed out the following: (1) there was no showing that Alfonso Mabalot, Espirita's husband, assented to the execution of his wife's Affidavit of Waiver.<sup>32</sup> Thus, if adjudged as valid, it must be construed to pertain only to half of Espirita's share in the co-ownership; and (2) they may still dispute the validity of Rodolfo's affidavit, inasmuch as it was never put in issue.<sup>33</sup> In this regard, his affidavit must be invalidated because Rodolfo, who was suffering an abnormality, could not have understood the import of what he signed. Moreover, his affidavit was notarized without personally appearing before the notary public.<sup>34</sup>

#### *The Court's Ruling*

The petition is unmeritorious.

The Court shall first address the procedural matter raised by the respondents before resolving the substantive aspect of the present case.

*One signature on the certification  
against forum shopping is  
substantial compliance.*

In their Respondents' Comment,<sup>35</sup> the Gomez Siblings point out that the certification<sup>36</sup> against forum shopping accompanying the present petition was signed by Marissa Mabalot only, supposedly for herself and in behalf of the other petitioners, namely: Edwin Mabalot, Oscar Mabalot, Marilou Mabalot, and Josephine Mabalot. This amounts to a defective petition, which must be dismissed.

<sup>32</sup> *Id.* at 20.

<sup>33</sup> *Id.* at 21.

<sup>34</sup> *Id.* at 22.

<sup>35</sup> *Id.* at 107-122.

<sup>36</sup> *Id.* at 24; with the heading, "Verification." It reads, "I, x x x Marissa M. Bomogao, x x x depose and say:

x x x x

That I have not filed any case involving the same issues in other courts or tribunals nor a case is pending therein. Should I learn that a case is pending involving the same parties and issues in any court or tribunal, I shall notify the court within five (5) days from knowledge of such pendency."

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Verily, the Rules of Court<sup>37</sup> require the petitioner to submit a certification against forum shopping together with his petition. In case there are several petitioners, the certification must be signed by all of them. Otherwise, those who did not sign will be dropped and will no longer be considered as parties.<sup>38</sup>

However, the recognized exception to this rule is when “all the plaintiffs or petitioners share a common interest and involve a common cause of action or defense.” In which case, “the signature of only one of them in the certification against forum shopping” is substantial compliance.<sup>39</sup>

Herein petitioners’ claim on the subject property is grounded on the co-ownership right/share of their predecessor-in-interest, Espirita. This commonality in their interest brings the petitioners within the exception, such that the signature of any one of them (in this case, Marissa) on the certification substantially complies with the rule.

*Complaint in second civil case is not  
an attempt to execute the judgment in  
the first civil case or a revival  
thereof.*

The petitioners admit that the RTC decision in Civil Case No. 92-CV-0753 dated October 28, 1994 lapsed into finality on November 23, 1994. However, they contend that the Gomez Siblings only had ten years from the date of finality to enforce the judgment *via* an independent action. Thus, when the Gomez Siblings filed their complaint in Civil Case No. 92-CV-0753 in May 2005, they were already barred from enforcing the decision from the first civil case.

The petitioners are mistaken.

<sup>37</sup> Section 4(e), Rule 45 in relation to Section 2, Rule 42, RULES OF COURT.

<sup>38</sup> *Fernandez v. Villegas*, 741 Phil. 689, 698 (2014), citing *Ingles, et al. v. Judge Estrada, et al.*, 708 Phil. 271, 301-303 (2013).

<sup>39</sup> *Id.*

The prevailing party in a decided case may move for execution, as a matter of right,<sup>40</sup> within five years from the finality of the decision sought to be enforced.<sup>41</sup> Beyond this period, he may revive the judgment through an independent action.<sup>42</sup> The Civil Code of the Philippines requires a party to bring the independent action within ten years from its finality.<sup>43</sup> Otherwise, his right of action will have prescribed.

However, the ten-year prescriptive period on actions seeking to enforce a judgment obligation could not have applied to the Gomez Siblings' complaint.<sup>44</sup> The original action here was not for the execution of a previous judgment or the revival thereof.

The case at bar stems from a complaint in Civil Case No. 05-CV-2116 filed by the Gomez Siblings. They alleged that, as the true and lawful owners of the co-ownership shares pertaining to Espirita, Teresita and Rodolfo over the subject land,<sup>45</sup> they were entitled to the cancellation of TCT No. T-5690 and the issuance of a new title in their names.<sup>46</sup> *These averments constitute a cause of action for reconveyance, not the revival or execution of a judgment.*

That the Gomez Siblings cited the ruling in Civil Case No. 92-CV-0753—an earlier case involving them and the petitioners' predecessors-in-interest—to support their claim does not convert their complaint into an action to revive the judgment in the first civil case. To be sure, while they prevailed in Civil Case No. 92-CV-0753, the RTC then did not explicitly order for the issuance of a new title in favor of the Gomez Siblings. The *fallo* in the earlier decision in Civil Case No. 92-CV-0753 reads:

WHEREFORE, all premises considered, judgment is hereby rendered in favor of all the defendants and against the plaintiffs, the complaint is hereby DISMISSED for lack of merit.<sup>47</sup>

<sup>40</sup> Section 1, Rule 39, RULES OF COURT.

<sup>41</sup> Section 6, Rule 39, RULES OF COURT.

<sup>42</sup> *Id.*

<sup>43</sup> Article 1144 in relation to Article 1152, CIVIL CODE.

<sup>44</sup> The provisions on enforcement and revival do not apply to a subsequent action which is based on a different cause of action. *See Diaz, et al. v. Valenciano*, 822 Phil. 291, 311 (2017).

<sup>45</sup> *Rollo*, p. 72.

<sup>46</sup> *Id.* at 73.

<sup>47</sup> *Id.* at 47.

Inasmuch as the dispositive portion plainly called for a dismissal, a motion for execution, as a matter of right, or an independent action for the revival of judgment, even if instituted within the ten-year prescriptive period, would not have been the proper remedies to ask for reconveyance and other reliefs prayed for by herein respondents.

*Parties may no longer re-litigate  
the issue on the Affidavits of  
Waiver's validity and  
enforceability.*

The Mabalot siblings insist that the Affidavits of Waiver are unenforceable documents. However, the Court cannot allow the petitioners to assail anew the documents' validity and unenforceability.

To recall, in the first civil case (Civil Case No. 92-CV-0753), the RTC terminated the co-ownership between the Tabora siblings. It found that the affidavits, together with the acknowledgment receipts of the amounts paid by the respondents for each co-ownership share, clearly conveyed the intention of the parties to consummate a sale of Espirita, Teresita, and Rodolfo's co-ownership shares to the Gomez siblings. As there was no ground to annul the affidavits, the RTC gave the documents full faith and credit.<sup>48</sup> It further held that as notarized documents, the affidavits are presumed to have been regularly executed. Without clear and convincing proof to overturn this presumption, the notarized documents shall serve "as evidence of facts in clear unequivocal manner therein expressed."<sup>49</sup>

After the decision lapsed into finality, the parties were bound by the matters adjudged in Civil Case No. 92-CV-0753. The issues previously settled therein may no longer be relitigated. The doctrine of *res judicata* in the concept of conclusiveness of judgment precludes the parties from raising issues squarely ruled upon in a previous proceeding in any future case between the same parties, albeit involving a different cause of action.<sup>50</sup>

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<sup>48</sup> *Id.* at 46.

<sup>49</sup> *Id.*

<sup>50</sup> See *Celendro v. Court of Appeals*, 369 Phil. 1102 (1999). Also see *Panganiban, et al. v. Oamil*, 566 Phil. 161 (2008).

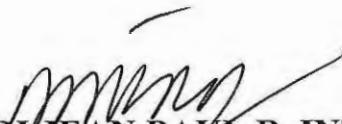
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Furthermore, when the RTC reinstated the co-ownership over the subject land in the second civil case (Civil Case No. 05-CV-2116), directly contravening the final and executory decision in Civil Case No. 92-CV-0753, it disregarded not only the doctrine of *res judicata*, but also that of immutability of judgments.<sup>51</sup>

Thus, the CA correctly overturned the erroneous ruling and ordered for the cancellation of TCT No. T-5690 and the issuance of a new title in favor of herein respondents. This finally laid to rest issues that have long been settled between parties who have remained in litigation for over two decades.

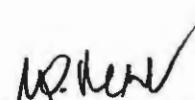
**WHEREFORE**, the petition is **DENIED**. the Decision dated June 26, 2012 and the Resolution dated December 17, 2012 of the Court of Appeals in CA-G.R. CV No. 95434 are **AFFIRMED**.

**SO ORDERED.**



HENRI JEAN PAUL B. INTING  
*Associate Justice*

WE CONCUR:



ESTELA M. PERLAS-BERNABE  
*Senior Associate Justice*  
*Chairperson*

<sup>51</sup> *Celendro v. Court of Appeals*, *supra* note 50 at 176.



**RAMON PAUL L. HERNANDO**  
*Associate Justice*

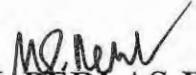


**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

(On leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
*Associate Justice*

### ATTESTATION

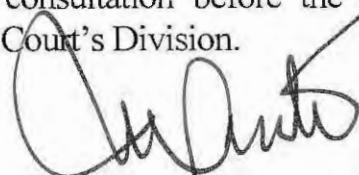
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

### CERTIFICATION

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



**DIOSDADO M. PERALTA**  
*Chief Justice*