Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

AMLAYON ENDE and QUEZON ENDE, SURVIVING CHILDREN AND LEGITIMATE HEIRS OF SPOUSES BUTAS ENDE AND DAMAGI AROG, represented by their co-heir, Attorney-In-Fact, LETECIA ENDE-BACALSO,
Petitioners,

G.R. No. 191867

\- *versus* -

ROMAN CATHOLIC PRELATE OF THE PRELATURE NULLIUS OF COTABATO, INC., FR. RONILO VILLAMOR and/or JOSE RABANG, WELHILMINA* VDA. DE GENERALLA, JESUS ACOSTA, ELIZA DIAZ, and/or JUANITO DIAZ and FLORENTINO KINTANAR, both represented by FELIPE VINLUAN, SR., PRIMO BAGASMAS and JESSIE FLORES and/or CORAZON FLORES.**
Respondents.

Present:

PERLAS-BERNABE, *SAJ.*,
Chairperson,
HERNANDO,
INTING,
GAERLAN,*** and
DIMAAMPAO,*** *JJ.*

Promulgated:

DEC 06 2021

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DECISION

* Also spelled as Wilhelmina in some parts of the records.
** Also spelled as Juanita in some parts of the records.
*** On official leave.

HERNANDO, *J.*:

Challenged in this petition[1] are the July 23, 2009 Decision[2] and March 10, 2010 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 00272-MIN, which dismissed the (a) complaint[4] for quieting of Original Certificate of Title (OCT) No. P-46114 and recovery of possession with damages, and attorney's fees filed by Amado Ende (Amado), Daniel Ende Ano (Daniel), Felipe Mendoza (Felipe), and Pilar Sunga (Pilar) against respondents Roman Catholic Prelate of the Prelature Nullius of Cotabato, Inc. (Roman Catholic), Welhilmina Vda. De Generalla (Welhilmina), Eliza and Juanito Diaz, Jessie and Corazon Flores, Fr. Ronilo Villamor, Jose Rabang and/or Jesus Acosta; and (b) the answer-in-intervention[5] filed by petitioners Amlayon Ende (Amlayon) and Quezon Ende (Quezon).

The Antecedents:

The spouses Butas Ende (Butas) and Damagi Arog (Damagi; collectively, spouses Ende), both Manobo natives, were the registered owners of a lot with an area of 223,877 square meters (sqm) located in Sudapin, Kidapawan, Cotabato covered by OCT No. P-46114.[6] However, portions of the subject property are presently occupied by respondents Roman Catholic (11,356 sqm.); Welhilmina, (112,023 sqm.); Eliza and Juanito Diaz (26,457 sqm.); and Jessie and Corazon Flores (12,500 sqm.).[7]

On August 17, 1995, Amado, Daniel, Felipe, and Pilar, claiming to be the surviving heirs of the spouses Ende, filed a complaint[8] for quieting of OCT No. P-46114 and recovery of possession thereof with damages and attorney's fees, docketed as Civil Case No. 1069. They claimed that, taking advantage of the ignorance and illiteracy of the spouses Ende, respondents gradually took possession of portions of the subject property through deceitful machinations.[9] In addition, they alleged that the lawful heirs of the spouses Ende had executed an extrajudicial settlement of estate which includes the subject property. They likewise claimed that respondents' ownership over the portions of the subject property was merely evidenced by tax declarations and that the purported conveyances of said respective portions were never annotated on OCT No. P-46114.[10]

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1 *Rollo*, pp. 50-81.
2 CA *rollo*, pp. 493-522. Penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Elihu A. Ybañez and Ruben C. Ayson.
3 Id. at 573-575. Penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Leoncia R. Dimagiba and Angelita A. Gacutan.
4 Records, pp. 1-5.
5 Id. at 114-118.
6 Id. at 463.
7 *Rollo*, p. 15.
8 Records, pp. 1-5.
9 Id.
10 Id.

Respondents filed a motion to dismiss[11] alleging that: (a) the certification issued by the barangay in compliance with barangay conciliation prerequisite was fatally defective;[12] and (b) the certificate of non-forum shopping was executed merely by petitioners' counsel.[13]

On September 5, 1995, Amado, Daniel, Felipe, and Pilar filed an amended complaint[14] reiterating substantially the allegations in their complaint dated August 17, 1995 and rectifying the fatally defective verification and certification against non-forum shopping.[15] However, they maintained that the barangay certification is not necessary as the complaint was coupled by a prayer for issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction.[16]

On September 21, 1995, respondents filed their answer with compulsory counterclaim[17] claiming that they acquired ownership over their respective portions of the subject property from Damagi or from third persons who, in turn, acquired the same from Damagi. Respondents belied Amado, Daniel, Felipe, and Pilar's allegation that they are the rightful heirs of the spouses Ende. They argued that their ownership over the respective portions of the subject property were not covered by transfer certificates of title registered in their name because of the difficulty in having them registered due to numerous claimants.[18] In addition, respondents invoked acquisitive prescription claiming that their possession of the respective portions of the subject property spanned at least 30 years to at most 50 years already. Since petitioners failed to assert their alleged rights over the subject property, laches already set in that barred their recovery thereof.[19]

On January 9, 1996, petitioners Amlayon and Quezon, claiming to be the surviving children and legitimate heirs of the spouses Ende, intervened.[20] In their answer-in-intervention,[21] they claimed that they are the children and legitimate heirs of the spouses Ende and that Amado, Daniel, Felipe, and Pilar, the plaintiffs in Civil Case No. 1069, are mere impostors.[22] They further claimed that they were not able to exercise their rights over the subject property after the death of the spouses Ende because they were driven away from the subject property by Inacara Ende (Inacara) and Joseph Butas Canta (Joseph), who are purportedly nephews of the spouses Ende.[23] They averred that the plaintiffs in Civil Case No. 1069 are not the real-parties-in-interest in the quieting of OCT

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11 Id. at 21-22.
12 Id.
13 Id. at 22.
14 Id. at 26-31.
15 Id. at 30-31.
16 Id. at 27.
17 Id. at 44-50.
18 Id. at 44-46.
19 Id. at 46-47.
20 Id. at 114-118.
21 Id.
22 Id. at 114-116.
23 Id. at 115-116.

No. P-46114. Thus, petitioners prayed for the nullity of the extrajudicial settlement of estate of the spouses Ende and the dismissal of the complaint for quieting of title.[24]

Ruling of the Regional Trial Court (RTC):

On September 3, 2003, the RTC, Branch 23 of Kidapawan City, rendered its Decision[25] dismissing the complaint for quieting of title and recovery of possession of the subject property covered by OCT No. P-46114 filed by Amado, Daniel, Felipe, and Pilar.[26] The RTC, however, granted petitioners Amlayon and Quezon's claim who, by preponderance of evidence, proved that they are the children of the spouses Ende and therefore, the legal heirs of the latter.[27]

Moreover, the RTC found that the conveyances in favor of respondents over their respective portions of the subject property executed by Damagi or other persons, who in turn acquired the same from Damagi, were null and void for being fictitious,[28] with the exception of Wilhelmina who acquired a portion of the subject property on April 5, 1945 from Damagi.[29] However, the portion sold to Welhilmina was reduced to 7.4625 hectares instead of 10 hectares as Damagi can only convey up to her lawful share in the inheritance, *i.e.,* 7.4625 hectares.[30]

The dispositive portion of the RTC's September 3, 2003 Decision reads:

> Wherefore, this Court finds and so holds:
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> 1. That plaintiffs failed to prove their case by preponderance of evidence. Their complaint is dismissed.
>
> 2. That Intervenors were able to prove their case by preponderance of evidence and orders the following defendants, to wit:
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> a. Except for Defendant Wilhelmina Vda de Generalla and up to 7.4625 hectares only all the defendants are directed to vacate their present occupation or possession of Lot No. 9, Blk. No. 25, Pls 59 registered in the names of Spouses Butas Ende and Damagi Arog and located at Kidapawan, Cotabato and deliver them peacefully to Intervenors;
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> b. The improvements of all the defendants except Wilhelmina Vda de Generalla and up to 7.4625 hectares only shall be governed by Article[s] 545 to 548 of the New Civil Code; As provided Article 545 If at the time the good faith ceases, there should be any natural or industrial fruits, the possessor shall have a right to a part of the expenses of cultivation, and to part of the net harvest, both

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24 Id. at 117.
25 Id. at 661-706. Penned by Judge Rogelio R. Narisma.
26 Id. at 704.
27 Id.
28 Id. at 688-704.
29 Id.
30 Id.

in proportion to the time of the possession.

The charges shall be divided on the same basis by the two possessor.

The owner of the thing may, should he so desire, give the possessor in good faith the right to finish the cultivation and gathering of the growing fruits, as an indemnity for his part of the expenses of cultivation and the net proceeds; the possessor in good faith who for any reason whatever should refuse to accept this concession, shall lose the right to be indemnified in any other manner.

Article 546 Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expense shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

Article 547 If the useful improvements can be removed without damage to the principal thin, (sic) the possessor in good faith may remove them, unless the person who recovers the possession exercises the option under paragraph 2 of the preceding article.

Article 548 Expenses for pure luxury or mere pleasure shall not be refunded to the possessor in good faith; but he may remove the ornaments with which he has embellished the principal thing if he suffers no injury thereby, and if his successor in the possession does not refer to refund the amount expended.

The Kidapawan City Assessor's Office is directed to assist this Court in determining the necessary and useful improvements of said defendants. As previously stated there is no proof from said defendants of the nature, value and what are these improvements are.

3. Defendant Wilhelmina Vda de Generalla is entitled to ownership and possession of 7.4625 hectares of Lot No. 9, Block 25, Pls-59 registered in the name of Spouses Butas Ende and Damagi Arog. In excess of the aforesaid area, her right to improvements shall likewise be governed by Article 545 to 548 of the New Civil Code.

The Kidapawan City Assessor's Office is likewise directed to assist the Court in determining the necessary and useful improvements of defendant Wilhelmina Vda de Generalla. Those parcels of land mentioned in exhibit "14" containing 5.0 hectares and about 2.4625 hectares mentioned in exhibit "17" of said defendant are the ones established by preponderance of evidence as rightfully belonging to her.

4. Defendant Jesus Acosta is directed to deliver the owner's copy of OCT P-46114 to the Intervenors upon finality of this decision.

No pronouncement as to costs.

SO ORDERED.[31]

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[31] Id. at 704-706.

Ruling of the Court of Appeals:

On appeal, the CA rendered its assailed July 23, 2009 Decision[32] reversing and setting aside the RTC's ruling in favor of petitioners Amlayon and Quezon. However, the CA affirmed the RTC's dismissal of the complaint for quieting of title filed by Amado, Daniel, Felipe, and Pilar. The dispositive portion of the CA Decision reads:

> WHEREFORE, premises foregoing, the appealed decision is hereby AFFIRMED as to the dismissal of the complaint with the modification that intervenor-appellees' "Answer-in-intervention" is likewise DISMISSED. Consequently, the findings of the court *a quo*'s ruling in favor of intervenor-appellees are REVERSED and SET ASIDE.
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> SO ORDERED.[33]

The CA dismissed Amado, Daniel, Felipe, and Pilar's complaint, as well as petitioners' answer-in-intervention, for lack of cause of action as both parties failed to establish that they are the real parties-in-interest to institute an action for quieting of title or recovery of possession.[34] The CA noted that Civil Case No. 1069 involved a question of who are the legitimate heirs of the spouses Ende, which issue should have been threshed out in a special proceeding, and not in a complaint for quieting of title. To recall, Amado, Daniel, Felipe, and Pilar, and petitioners Amlayon and Quezon, both claimed rights over the subject property as the legitimate heirs of the spouses Ende. Thus, the CA held that there was a need for a prior declaration of heirship in a special proceeding to determine the proper party who can institute an action.[35]

Admittedly, under the 1997 Rules of Court, the affirmative defense of lack of cause of action is deemed waived when not raised in a motion to dismiss or in the answer. However, this is not applicable in the case at bar because the complaint and the answer-in-intervention were filed on August 17, 1995 and January 9, 1996, respectively, or prior to the effectivity of the 1997 Rules of Court. Hence, the prior Rules of Court that states that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived except the failure to state a cause of action which may be alleged in a later pleading, shall govern.[36]

Further, the CA ruled that even if the complaint and answer-in-intervention were not dismissed based on lack of cause of action, petitioners' inaction to claim as alleged rightful heirs of the spouses Ende begs for the application of the doctrine of laches.[37] Although the subject property is covered by the Torrens System which means that it cannot be acquired by prescription, the right to

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32 CA *rollo*, pp. 493-522.
33 Id. at 522.
34 Id. at 507.
35 Id. at 510-513.
36 Id. at 516-518.
37 Id. at 518-519.

recover the same may be barred by laches.[38]

A motion for reconsideration[39] was filed by petitioners Amlayon and Quezon. However, it was denied by the CA in its March 10, 2010 Resolution.[40]

Hence, this petition.

Issues

The issues presented for Our resolution are as follows:

1. Whether or not the equitable ground of laches prevails over the indefeasible Torrens title;

2. Whether or not the equitable principle of laches applies in favor of respondents, who are occupants of subject property in bad faith, considering that their alleged conveyances are clearly void *ab initio*; and

3. Whether or not the principle of laches applies against petitioners Amalayon and Quezon, unlettered members of the cultural minorities/indigenous people, who discovered the existence of OCT No. P-46114 only in February 1995 and filed their answer-in-intervention on January 9, 1996.[41]

Petitioners' Arguments:

Petitioners argue that they sufficiently proved their right over the subject property as legitimate heirs of spouses Ende. They diligently pursued their rights and exerted efforts to recover the subject property since 1970. Unaware of the legal processes, they were in a quandary until they secured a copy of the title of the subject property in 1994 from the office of the National Commission on Indigenous Peoples (NCIP) and found that OCT No. P-46114 was free from any lien and encumbrances.[42] However, on August 17, 1995, a complaint for quieting of title was filed by Amado, Daniel, Felipe, and Pilar who claimed to be the rightful heirs of Sps. Ende. From the discovery and recovery of OCT No. P-46114 in 1994 until the filing of complaint for quieting of title and answer-in-intervention on August 17, 1995 and January 9, 1996, respectively, only five months have lapsed. Hence, the equitable principle of laches has not yet set in.[43]

Moreover, the alleged documents of sale of the respective portions of the subject property to herein respondents are void because during the execution of

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38 Id. at 519-521.
39 Id. at 540-550.
40 Id. at 573-575.
41 *Rollo*, p. 65.
42 Id. at 66-73.
43 Id.

those alleged documents, Butas was already deceased.[44] In addition, the spouses Ende are both members of the Bagobo Tribe, a sub-group of the Manobo indigenous cultural community, hence, the transfer should have an approval of the NCIP or its predecessor, the Mindanao Commission.[45] The evidence on records shows that the required formalities for the validity of the alleged documents of sale, *i.e.*, the approval of the NCIP or its predecessor, have not been complied with.[46] Also, none of the alleged documents of sale was registered and the title of the subject property remained in the names of the spouses Ende.[47]

Petitioners further argue that laches does not apply on properties registered under the Torrens system. Section 47 of Presidential Decree No. (PD) 1529[48] states that no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. If prescription cannot be applied, neither may laches be considered a valid defense for claiming ownership of land registered under the Torrens system.[49] Nonetheless, the principle of laches as a recourse to equity may be applied only to those who have been in possession of the land for a long time in good faith and for value.[50] However, herein respondents have been in possession of the subject property in bad faith for a long period of time as their claims of ownership were based on (a) void documents of sale having been executed by persons who are not the owners of the subject property or heirs of the latter; (b) void documents of sale for failure to conform with the formalities required by law and for lack of approval of the NCIP or its predecessor; (c) unregistered documents of sale; and (d) the OCT No. P-46114 which remains in the names of spouses Ende.[51]

Respondents' Arguments:

Respondent Roman Catholic avers that it has been occupying a portion of the subject property as a cemetery since 1955. In 1995, a complaint for quieting of title was filed by Amado, Daniel, Felipe, and Pilar who claimed to be nieces and nephews of the spouses Ende, who were allegedly childless in their marriage. Then, herein petitioners, the intervenors in Civil Case No. 1069, averred to have been threatened by Amado, Daniel, Felipe, and Pilar and drove them away from the subject property. However, no complaint or police blotter was ever filed by petitioners against the complainants. Besides, petitioners were living in Makilala that is quite near the subject property's location in Kidapawan City.[52]

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44 Id. at 68-69.
45 Id. at 69.
46 Id.
47 Id.
48 Entitled "Amending and Codifying the Laws Relative to Registration of Property and For Other Purposes." Approved: June 11, 1978.
49 *Rollo*, pp. 71-72.
50 Id. at 73-74.
51 Id.
52 Id. at 235-236.

Moreover, respondent Roman Catholic alleges that it is the custom of the Bagobo children to report the demise of their parents, and that they are the children of the deceased who will inherit the subject property, to their tribal leaders, the local media, the Catholic Church, politicians of the province of Cotabato, Office of the Presidential Assistant on National Minorities, Commission on National Integration and the NCIP.[53] However, petitioners did not do so. Hence, the appellate court correctly ruled that petitioners' action to recover the subject property covered by OCT No. P-46114 had already prescribed due to laches.[54]

Further, respondent Catholic Church agrees with the appellate court that the determination of who are the rightful heirs of the spouses Ende should be resolved in a special proceeding and not in a case of quieting of title.[55] Since complainants Amado, Daniel, Felipe, and Pilar, and petitioners Amlayon and Quezon, assert their claim on the subject property as descendants of the spouses Ende, there is a need for a declaration of heirship in a special proceeding to determine the proper party to institute the action. Hence, the CA correctly dismissed the complaint for quieting of title and answer-in-intervention for lack of cause of action as the initiators failed to establish that they are the real party-in-interest to institute an action for quieting of title or recovery of possession.[56]

On the other hand, respondents Jesus Acosta (Acosta), Eliza Diaz (Eliza) and/or Juanito Diaz (Juanito), aver that petitioners' allegation that they are the rightful heirs of the spouses Ende to the exclusion of complainants Amado, Daniel, Felipe, and Pilar, calls for a separate determination of heirship in a special proceeding which is a precondition to an action for recovery of property and/or quieting of title.[57] They also reiterate the CA's ruling that petitioners' action to recover the subject property has already been barred by laches. Although prescription may not be a valid defense in an action to recover registered land, the claim of ownership may be barred by laches. Petitioners were aware of respondents' possession of the respective portions of the subject property but did not do anything to recover its possession.[58]

On the other hand, respondent Welhilmina argues that petitioners' right over the subject property has not been established. However, her ownership over a portion of the subject property has been sufficiently proven by evidence on record, such as tax declarations, deeds of sale and other acts of ownership. She likewise maintains that petitioners' action to recover possession of the subject property has already been barred by laches as they allowed 50 years to lapse before instituting an action before the appropriate court.[59]

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53 Id. at 236-238.
54 Id.
55 Id. at 239-242.
56 Id.
57 Id. at 269-271.
58 Id.
59 Id. at 313-332.

Respondent Florentino Kintanar (Kintanar) was deemed to have waived the filing of a comment per this Court's Resolution dated June 4, 2018.[60] Meanwhile, respondents Primo Bagasmas (Bagasmas), Jessie Flores (Jessie), and Corazon Flores (Corazon) were deemed as served of the petition by substituted service pursuant to Section 8, Rule 13 of the 1997 Rules of Court despite it being returned and unserved.[61]

Thereafter, an *ex-parte* motion[62] was filed by petitioners to exclude from the resolution of this case the two-hectare portion of the subject property occupied by respondent Roman Catholic that shall remain as property of the latter free from liens and encumbrances.

Meanwhile, petitioners Amlayon and Quezon were substituted by their heirs due to their demise on April 4, 2002[63] and January 15, 2010,[64] respectively.

Our Ruling

We find the petition meritorious.

The main causes of action in the court *a quo* docketed as Civil Case No. 1069 are the quieting of OCT No. P-46114, and recovery of possession of the subject property covered by OCT No. P-46114, filed by plaintiffs Amado, Daniel, Felipe, and Pilar against respondents Roman Catholic, Welhilmina, Acosta, Eliza and Juanito, Kintanar, Bagasmas, and Jessie and Corazon. There is no dispute that the subject property covered by OCT No. P-46114 was owned by the spouses Ende. However, two contending parties, namely: (a) Amado, Daniel, Felipe, and Pilar; and (b) petitioners Amlayon and Quezon, the intervenors in Civil Case No. 1069, both claimed to be the legal heirs of the deceased spouses.

The Court laid down in *Treyes v. Larlar* (*Treyes*)[65] that a prior determination of heirship in a special proceeding is not a prerequisite before one can file an ordinary civil action to enforce ownership rights by virtue of succession, to wit:

> Given the clear dictates of the Civil Code that the rights of the heirs to the inheritance vest immediately at the precise moment of the decedent's death even without judicial declaration of heirship, and the various Court *En Banc* and Division decisions holding that no prior judicial declaration of heirship is necessary before an heir can file an ordinary civil action to enforce ownership rights acquired by virtue of succession through the nullification of deeds divesting property or properties forming part of the estate

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60 Id. at 396-397.
61 Id. at 391.
62 Id. at 428-429.
63 Id. at 437.
64 Id. at 438.
65 See G.R. No. 232579, September 8, 2020.

> and reconveyance thereof to the estate or for the common benefit of the heirs of the decedent, the Court hereby resolves to clarify the prevailing doctrine.
>
> Accordingly, the rule laid down in *Ypon, Yaptinchay, Portugal, Reyes, Heirs of Gabatan v. Court of Appeals*, and other similar cases, which requires a prior determination of heirship in a separate special proceeding as a prerequisite before one can file an ordinary civil action to enforce ownership rights acquired by virtue of succession, is **abandoned**.
>
> Henceforth, the rule is: **unless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument, and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such.** The ruling of the trial court shall only be in relation to the cause of action of the ordinary civil action, *i.e.*, the nullification of a deed or instrument, and recovery or reconveyance of property, which ruling is binding only between and among the parties.[66]

There is no doubt therefore as to the rights of Amado, Daniel, Felipe, and Pilar; and petitioners Amlayon and Quezon who claim to be the heirs of spouses Ende to institute the present action to quiet OCT No. P-46114 and to recover its possession even without a prior determination of heirship in a special proceeding. Consequently, the question as to who between Amado, Daniel, Felipe, and Pilar; and petitioners Amlayon and Quezon, are the real parties-in-interest or the rightful heirs of Butas is inevitable in the case at bar.

It bears stressing that what is abandoned in *Treyes* is the prior determination of heirship in a separate special proceeding as a prerequisite for filing an ordinary civil action. Accordingly, when two or more heirs rightfully assert ownership over another in an ordinary civil action to recover the property of the estate against third persons, the trial court may determine their status or right as legal heirs to protect their legitimate interests in the estate, since successional rights is transmitted by operation of law from the moment of death of the decedent. Thus, it is only proper to allow the legitimate heirs of Butas to institute the present civil action or to intervene in the recovery of the property of the estate without a prior determination of heirship in a special proceeding.

Apropos, the RTC validly acquired jurisdiction over the determination of heirship between Amado, Daniel, Felipe, and Pilar, and petitioners Amlayon and Quezon. Hence, the CA erred when it reversed and set aside the ruling of the RTC regarding the determination of the legal heirs of spouses Ende, *i.e.*, who between Amado, Daniel, Felipe, and Pilar, on one hand, and petitioners Amlayon and Quezon, on the other, are the real parties-in-interest in the action for quieting of OCT No. P-46114 and the recovery of ownership and possession of the subject property covered by OCT No. P-46114 filed against respondents

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[66] Id.

Roman Catholic, Welhilmina, Acosta, Eliza and Juanito, Kintanar, Bagasmas, and Jessie and Corazon.

Having arrived at the conclusion that the trial court validly assumed jurisdiction to determine the issue of heirship in an ordinary civil action, we come now to the resolution of the following issues, namely: (a) whether petitioners Amlayon and Quezon are the legal heirs of the Endes; (b) whether respondents Roman Catholic, Welhilmina, Acosta, Eliza and Juanito, Kintanar, Bagasmas, and Jessie and Corazon, validly acquired ownership over the respective portions of the subject property covered by OCT No. P-46114; and (c) whether petitioners Amlayon and Quezon are barred by the principle of laches to recover the ownership and possession of the subject property covered by OCT No. P-46114.

(a) Whether petitioners Amlayon and Quezon are the legal heirs of Sps. Ende.

It must be pointed out that only petitioners Amlayon and Quezon elevated the case before this Court while Amado, Daniel, Felipe, and Pilar, plaintiffs in Civil Case No. 1069, did not file any petition assailing the CA's July 23, 2009 Decision and March 10, 2010 Resolution that dismissed their action for quieting of title and recovery of possession with damages. Nonetheless, this Court finds it necessary to resolve the issue of the spouses Ende's rightful heirs in order to fully settle the issue of quieting of title, ownership and possession of the subject property covered by OCT No. P-46114.

After a meticulous review of the records, we declare petitioners Amlayon and Quezon to be the legal and rightful heirs of spouses Ende entitled to the latter's estate, if any.

At the outset, it is well to emphasize that the RTC's findings of fact cannot be disturbed inasmuch as Amado, Daniel, Felipe, and Pilar, plaintiffs in Civil Case No. 1069, did not appeal before this Court. Moreover, petitioners Amlayon and Quezon elevated this case to Us on a petition for review on *certiorari* under Rule 45 or on questions purely of law. The point at issue, therefore, is not whether petitioners are the legitimate children of the spouses Ende, but rather whether the petitioners had preponderantly proved by evidence that they are the legitimate heirs of the Ende couple.

Article 265 of the Civil Code provides that the "*filiation of legitimate children is proved by the record of birth appearing in the Civil Register, or by an authentic document or a final judgment.*" In the absence thereof, the filiation shall be proved by the continuous possession of status of a legitimate child[67] or

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67 CIVIL CODE, Article 266.

by any other means allowed by the Rules of Court and special laws.[68] This action to claim one's legitimacy may be brought by the child during his or her lifetime and shall be transmitted to his or her heirs if he or she should die during his or her minority or in a state of insanity.[69]

The foregoing provisions in the Civil Code have been carried over to the Family Code, which provide thus:

> Art. 172. The filiation of legitimate children is established by any of the following:
>
> (1) The record of birth appearing in the civil register or a final judgment; or
>
> (2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.
>
> In the absence of the foregoing evidence, the legitimate filiation shall be proved by:
>
> (1) The open and continuous possession of the status of a legitimate child; or
>
> (2) Any other means allowed by the Rules of Court and special laws.
>
> Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.
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> x x x x
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> Art. 174. Legitimate children shall have the right:
>
> (1) To bear the surnames of the father and the mother, in conformity with the provisions of the Civil Code on Surnames;
>
> (2) To receive support from their parents, their ascendants, and in proper cases, their brothers and sisters, in conformity with the provisions of this Code on Support; and
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> (3) To be entitled to the legitime and other successional rights granted to them by the Civil Code.

In the absence of the record of birth and admission of legitimate filiation, Article 267 of the Civil Code and Article 172 of the Family Code provide that filiation shall be proved by any other means allowed by the Rules of Court and special laws, such as, baptismal certificate, a judicial admission, a family bible in which his or her name has been entered, common reputation respecting his or her pedigree, admission by silence, the testimonies of witnesses and other kinds of proof admissible under Rule 130 of the Rules of Court.

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68 CIVIL CODE, Article 267.
69 CIVIL CODE, Article 268.

Petitioners claim that they are the legitimate children of the spouses Ende. However, petitioners' records of birth were not recorded in the Civil Register or their legitimate filiation embodied in a public document or a private handwritten instrument signed by the spouses Ende. Instead, petitioners offered testimonies of their relatives, namely, Elena R. Birang (Elena), Laureana Bayawan (Laureana), Cristina Birang Carbonel (Cristina), and Marino Icdang (Marino) to prove that they are legitimate children of the spouses Ende.

We hold these testimonial evidence sufficient to establish petitioners' status as heirs of the Ende couple.

Both the Civil Code and Family Code recognize such other means allowed by the Rules of Court to prove filiation or the legitimacy status of a person, that includes testimonies of witnesses. Although no documentary evidence was offered by petitioners to prove their legitimacy, the testimonies of the witnesses presented preponderantly tipped the scales in their favor. Section 36, Rule 130 of the Rules of Court provides that "a witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in the rules." Clearly, a testimony based on personal knowledge, such as that of an eyewitness, may prove the fact that petitioners were the legitimate children of the spouses Ende.

First, Elena testified that she is the daughter of Antonia Bangkas (Antonia) and Valentin Robles; and has been a resident of Sudapin, Kidapawan since birth. She further recalled that her great grandfather's name is Ende Bago who has four children, namely, Udtog, Katiyayan, Bangkas and Butas. Her mother Antonia is the daughter of Bangkas. She attested that herein petitioners are her uncles, being the sons of the Ende couple, whom she knew because of the proximity of their land to the subject property owned by the spouses Ende:

Q: Do you know if this Butas Ende and Damagi Arog had any children or child?
A: Yes, I know.

Q: What are the names?
A: Amlayon Ende, Matias Ende, Quezon Butas.

Q: Do you know why Quezon is using the family name of Butas?
A: During that time if you will enroll in school you can use family name or the name of your father.

Q: Is it the practice of your tribe to use the given name of the father as family name?
A: Yes.

x x x x

Q: Can you remember if when did these couple Butas Ende and Damagi Arog acquired this land?
A: They inherited through their ancestors.

Q: What about you, you said that you were born in that barangay Sudapin in whose property your parents stay?
A: In our land, in the land of my parents.

Q: How far is this to the land of Butas Ende?
A: Adjoining.[70]

She declared that when the Ende couple died, Inacara, Joseph and Ayonan took over the subject property and drove away herein petitioners from their land. Inacara, Joseph and Ayonan are the descendants of Udtog who lived with the spouses Ende together with petitioners. She testified thus:

Q: After the death of Butas Ende in 1939 and the death of Damagi Arog in 1948 who took over or took care the land? (sic)
A: Inacara, Joseph and Ayonan.

Q: You are referring this Inacara listed here as Inacara Udtog as no. 6 of the children of Udtog Ende?
A: Yes sir.

Q: When you mention the name Joseph you are referring to this Joseph Canta the only son of Biya Ende one of the children also of Udtog Ende?
A: Yes sir.

Q: You mention the name Ayonan Sunga you are referring to the Ayonan Sunga listed here as one of the two children of Uyan Ende?
A: Yes sir.

Q: Do you know why these 3 Ayonan Sunga, Joseph Canta and Inacara Udtog took over the land of Butas Ende and Damagi Arog after their demise?
A: Because our land and the land of Butas are adjoining.

Q: Where were Amlayon Ende, Matias Ende and Quezon Ende the children of Butas Ende and Damagi Arog?
A: They already left the place because whenever they go to their land they threatened. (sic)

Q: Whom are you referring when you said they threatened Amlayon Ende, Matias Ende and Quezon Butas?
A: Inacara.

Q: Do you know why Inacara threatened these Amlayon, Matias and Quezon the children of Butas and Damagi Arog?
A: Inacara threatened Amlayon, Matias and Quezon because he want (sic) to grab the land.[71]

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70 TSN (Elena R. Birang), November 21, 2000, pp. 22-26.
71 Id. at 27-29.

Also, it bears noting that Elena, being a collateral relative of the Endes, did not file any claim over the subject property because she knew of the existence of herein petitioners, the children of the spouses Ende, thus:

Q: It appears that you're closes (sic) relative to Butas Ende. Tell the Court why did you not file a case to claim this property?
A: We did not file because he has children.

Q: The same way this Bayawan family did not also pursue any claim in this land?
A: No because they waited for the children.[72]

Second, Marino corroborated Elena's testimony when he confirmed that Butas has two brothers, namely, Udtog and Bangkas and one sister named Catiyayan.[73] Marino is the son of Ikwang Ende Indang (Ikwang), the daughter of Catiyayan. He further testified that he knew petitioners Amlayon and Quezon as the children of the spouses Ende; and that Inacara, the son of Udtog, drove them out of the subject property, to wit:

Q: Now, do you know if this Butas Ende and Damagi Arog have children?
A: Yes, they have.

Q: How many children do they have?
A: They are three (3) brothers, and the other brother had died earlier.

Q: Can you please name them?
A: The eldest is Amlayon Ende and then Matias Ende who died earlier and Quezon Ende.

XXXX

Q: Now, this property of Butas Ende which you mentioned which is in the Lower Sudapin now, do you know if at that time when you came of age who were in possession of this land?
A: During that time when I was invited by my Uncle Inacara Ende because actually they were the one who occupied the area, during that time I used to go there and visit them.

Q: Do you know if why was your Uncle Inacara in possession of that lot of Butas Ende which you mentioned in Lower Sudapin?
A: Because, actually, sir, Inacara is educated. He even driven out Amlayon and the brothers because one thing, he has knowledge and is educated.

Q: Why do you know? Is your Tiyo Amlayon, Quezon and Matias, do you know if they acquired education?
A: No, they did not.[74]

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72 TSN (Elena R. Birang), February 21, 2001, p. 10.
73 TSN (Marino Iodang), January 25, 2002, pp. 6-7.
74 Id. at 10-16.

Marino recalled that his mother Ikwang was very close to his uncles, Amlayon and Quezon, as they always visited each other's place, thus:

> Q: During the lifetime of your mother, tell us how close was she to your Tiyo Amlayon and the other brothers?
> A: During that time when they were still living they always visit our place because according to my mother they are our relatives, they always come to our place and I always go to their houses whenever, for example, we have gathering, I always go to their place and they always go to our place. And if my mother call for some sort of meeting or gathering they always come to our place.
>
> Q: How do your Tiyo Amlayon, Tiyo Matias and Tiyo Quezon call your mother?
> A: They call her by name.
>
> Q: How do they address your mother?
> A: They addressed her just by telling her by name because in our culture, we have no such thing as Kuya or Ate or what. We always addressed them in their names.
>
> Q: They are actually first cousins?
> A: They are first cousins. [75]

Marino further averred that when he was in high school, his uncle, petitioner Amlayon related to him about Inacara's fraudulent selling of the spouses Ende's properties, thus:

> Q: Do you know if considering that you said this land of Butas Ende and Damagi Arog were taken by Inacara by driving away the children of Butas Ende and Damagi Arog from the land, do you know if sometime later on your Tiyo Amlayon and his brothers moved to recover their property?
> A: When I was still high school at that time they were relating to me about their property that was taken by, of course, it was occupied by Inacara and it was I think sold by them without their knowledge.
>
> Q: Who sold?
> A: It was I think Inacara who is the one heading the selling of this property and so I in fact advised them that they should gather all the papers, gather all documents and let the Court decide on the case.
>
> Q: That was your advice?
> A: That was my advice to them but I was then in high school during that time.[76]

The testimonies of Elena and Marino were based on their own personal knowledge of petitioners' status as legitimate children of the Ende couple. They are close relatives of Amlayon and Quezon and live near the subject property, hence, they had the opportunity to meet and know their neighbors who are also their relatives. Also, it bears stressing that Elena and Marino are collateral

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75 TSN (Marino Icdang), January 25, 2002, pp. 27-28.
76 Id. at 18-19.

relatives of the Endes, who can rightfully claim shares in the subject property in the same manner as plaintiffs Amado, Daniel, Felipe, and Pilar. Their lack of interest in the subject property only shows that they acknowledge petitioners as the legitimate children of the spouses Ende, and who have a prior and superior right over them.

Third, Laureana is the daughter of Ugalingan Bangkas Bayawan (Ugalingan), who is the son of Bangkas. She testified that Butas and her grandfather Bangkas are brothers. She corroborated the testimonies of Elena and Marino that Butas had two brothers and one sister, namely, Bangkas, Adtag and Catiyayan. She further averred that she lives in her aunt Antonia's property in Sudapin, Kidapawan City that is adjacent to the subject property owned by the spouses Ende, to wit:

Q: You stated that you are a resident of Sudapin, Kidapawan City, since when have you been residing in that place?
A: Since birth.

Q: So you own the place or the land where you were staying?
A: No, Sir.

Q: Who owns that land?
A: It is owned by Antonia Bangkas.

Q: Do you have any relation with Antonia Bangkas?
A: Yes, Sir.

Q: What is your relation with her?
A: My father and Antonia Bangkas are brother and sister.

Q: Do you know the parents of your father and your aunt Antonia Bangkas?
A: Yes, Sir.

Q: What are the names of the parents or your grandparents?
A: Bangkas Ende is his father, I do not know their mother because when I was small they were already dead before my birth.

Q: Do you know if your grandfather Bangkas Ende had any brother or sister?
A: Yes, Sir.

Q: Who are they?
A: Adtag Ende, Catiyanan Ende and Butas Ende.

x x x x

Q: You mentioned of Butas Ende as one of the brother of your grandfather Bangkas Ende, do you know if this Butas Ende has any children? (sic)
A: Yes, Sir.

Q: Please name them?
A: Amlayon Ende, Matias Ende and Quezon Ende.

Q: Do you know if this Butas Ende has any property they have acquired property during their life time?
A: I know.

Q: Where is this lot situated?
A: The land is adjacent to the land of Antonia Bangkas at Sudapin.

Q: How far is this land of Butas Ende to your house?
A: It is very near.[77]

She further testified that Inacara, Joseph and Ayunan, descendants of Adtag, were adopted by the Endes and lived together with petitioners Amlayon and Quezon in the subject property. She confirmed Elena and Marino's testimonies that petitioners were driven away by Inacara, Joseph, and Ayunan from the subject property. She averred that she personally knew such fact because petitioner Amlayon used to visit her father Ugalingan to talk about his predicament, to wit:

Q: Now, you said that your uncles Amlayon and Quezon are not anymore residing in their land of their parents, do you know the reason why?
A: Yes, I know.

Q: Tell us?
A: They left the land because they were driven away.

Q: Who drove them away?
A: Inacara Adtag, Joseph Canta and Ayunan Sunga.

x x x x

Q: How did they happen to enter into the land of Butas Ende?
A: They were adopted by Butas Ende.

Q: And then?
A: They lived together with Butas Ende.

Q: How did you happen to know this?
A: I know that because my Uncle whenever they visit my father they talked about this.

Q: And then what year was that when your Uncle used to visit your father?
A: That was in 1977-1978.[78]

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77 TSN (Laureana Bayawan), March 15, 2001, pp. 5-8.
78 Id. at 11-12.

However, on cross-examination, Laureana testified that her testimony regarding the legitimacy status of petitioners Amlayon and Quezon was based merely on the information relayed to him by her father Ugalingan, aunt Elena and uncle Amlayon, to wit:

Q: How old are you Mrs. Guinang?
A: 42 years old.

Q: Where were you born when Bangkas Ende was still alive?
A: I was not born yet.

Q: So where did you get the basis of your testimony about the family tree of Bangkas Ende?
A: My father, Elena and Tiyo Amlayon.

Q: Did you hear this as orally told by these 3 people you mentioned?
A: Yes, Sir, because during that time my father and Elena Birang were still alive.

Q: So the story you got was merely coming from the oral statement from these 3 persons?
A: Yes, Sir.[79]

Similarly, witness Cristina, the daughter of Elena and granddaughter of Antonia, testified that her knowledge of her relatives was based on the information given by her mother and grandmother. She declared that Elena and Antonia told her that the spouses Ende have three children, namely, Amlayon, Quezon, and Matias, to wit:

Q: When were you born?
A: 1956, October 7.

Q: These things you have been telling about the family tree of the family of Butas Ende came from your mother?
A: This is base (sic) on the story of my grandmother and my mother.

Q: When did you (sic) grandmother die?
A: Five (5) years ago when my grandmother died.

Q: What are you telling the Court is a stories (sic) that was told by dead person?
A: Yes sir.

Q: You were saying that late Butas Ende and Damagi Arog have children. What are the names of their children?
A: Amlayon Ende, Quezon Ende and Matias Ende.[80]

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79 Id. at 30.
80 TSN (Cristina Carbonel), July 24, 2001, pp. 24-25.

Both Laureana and Cristina testified on petitioners Amlayon and Quezon's family pedigree based on the declarations relayed to them by other family members who were already deceased and cannot testify in court, namely Ugalingan and Antonia. Notably, such are considered declarations about pedigree that are admissible, as an exception to the hearsay rule, under Section 39, Rule 130 of the Rules of Court, subject to the following conditions: (1) that the declarant is dead or unable to testify; (2) that the declarant be related to the person whose pedigree is the subject of inquiry; (3) that such relationship be shown by evidence other than the declaration; and (4) that the declaration was made *ante litem motam*, that is, not only before the commencement of the suit involving the subject matter of the declaration, but before any controversy has arisen thereon.[81]

There is no dispute that the declarants, Ugalingan and Antonia, were both dead or unable to testify when Laureana and Cristina testified. In addition, the declarations that Amlayon and Quezon are legitimate children of the spouses Ende were relayed by Ugalingan and Antonia to Laureana and Cristina before the commencement of this suit or before any controversy arose involving the subject property. Lastly, the relationship between the declarants Ugalingan and Antonia, and petitioners Amlayon and Quezon, has been established by evidence other than such declaration, consisting of Elena's testimony that Ugalingan and Antonia are first cousins of Amlayon and Quezon since Bangkas, the declarants' father, and Butas, petitioners' father, are brothers. Likewise, Marino corroborated Elena's testimony that Bangkas and Butas are brothers and therefore, petitioners are related to declarants Ugalingan and Antonia by blood.

To note, Laureana also testified that petitioner Amlayon regularly visited her father Ugalingan and sought advice from the latter regarding the recovery of the subject property. This confirms that declarant Ugalingan indeed knew the personal circumstances of Amlayon and Quezon, specifically, their status as the legitimate children of the spouses Ende, to wit:

> Q: So since you said your Uncle Amlayon Quezon used to consult your father about their land, do you know what is the advice of your father?
> A: Yes, I know.
>
> Q: What was the advice (sic) of your father?
> A: My father adviced (sic) them to take action because it is their land.[82]

These incidents were corroborated by Cristina when she testified that Amlayon and Quezon used to consult Ugalingan regarding the subject property. She personally knew such fact as she lives in the property of Antonia, who is a neighbor of Ugalingan. She averred that they could hear the conversations of Ugalingan and petitioners because of the proximity of their houses, to wit:

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81 *Tison v. Court of Appeals*, 342 Phil. 550, 561 (1997).
82 TSN (Laureana Bayawan), March 15, 2001, pp. 12-13.

Q: Why did you know that fact these sons of Butas and Damagi went to your grandfather to seek advise? (sic)
A: Ugalingan Bayawan and my grandmother are just neighbor and when Amlayon and Quezon Ende went to the house of Ugalingan Bayawan we were there and we could hear what they would be conversing.

Q: What is the advised (sic) of your grandfather to the sons? (sic)

x x x x

A: My grandfather Ugalingan Bayawan advised them to talk to Inacara.[83]

Clearly, the overwhelming testimonies of petitioners' relatives proved that petitioners Amlayon and Quezon are the legitimate children of the spouses Ende and that Inacara, Joseph, and Ayunan drove them out of the subject property after the demise of the spouses Ende. Respondents attempted to discredit the testimony of Elena when they averred that she was not a descendant of Bangkas as her mother Antonia was the daughter of Idol Iday or Edon with another man.

Nonetheless, even assuming that Elena is not a descendant by blood of Bangkas and Butas, her testimony, that is based on her personal knowledge, is still admissible. It is worth noting that she testified based on her own perception of facts. Besides, Section 39, Rule 130 of the Rules of Court does not require that the witness be related to the person whose legitimacy is the subject of inquiry. What matters is that the declarant's relationship with the person whose pedigree is in question be shown by evidence other than such act or declaration.

Further, even with the attempts to discredit the testimonies of petitioners' witnesses by presenting a marriage certificate stating that Amlayon's father is Macasawsaw Ende and not Butas, petitioners successfully rebutted the allegation with a Certificate[84] that no such marriage contract exists in the records of both the local and national civil registrar offices. In addition, Amlayon himself, supported by the other witnesses, attested that he was illiterate hence, he could not have possibly signed the purported marriage contract presented by the opposing party.

On the other hand, plaintiffs' witnesses, namely, Ignacio Ikling (Ignacio), Amado Pinantao (Pinantao), Daniel, and Felipe presented conflicting testimonies regarding the genealogy of the Endes.

First, Ignacio's testimony regarding the relatives of spouses Ende was not based on his personal knowledge but on his own investigations and interviews of Datu Pinantao, Datu Elib Uled and Datu Maway, to wit:

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83 TSN (Cristina Carbonel), July 24, 2001, pp. 12-13.
84 Records, pp. 574-575.

Q: Now, Mr. Witness, by the way, you have your Exhibit "VV", where did you get the basis for that. How did you come to that writing of individual persons. (sic)
A: I got this from, when I conducted investigation from the old man like Datu Pinantao which is of the pedigree of Butas Ende.

Q: Was he the only person you interviewed?
A: We have also Datu Elib Ulod.

x x x x

Q: Now, considering that you were born 1956 and this Butas Ende died before the war according to the records and Damagi Arog died about 1952 or 1953. You were not yet born when these people were still alive? You never met them?
A: No, Sir.

Q: So much so that the other relatives also of Butas Ende and Damagi Arog you do not know because definitely some have already died, is it not?
A: Yes, Sir.

x x x x

Q: In other words, Mr. Ikling in your interview with these people they were only getting their data from their recollection only, is it not?
A: Yes, Sir.

Q: Not from their own personal knowledge.
A: Yes, Sir.

x x x x

Q: By the way, Mr. Ikling in your study did you ask or investigate whether the couple Butas Ende and Damagi Arog have legitimate children or illegitimate children?
A: No, they have no children.

Q: How many persons did you ask regarding this matter in your study. How many people did you ask in your study telling you that they have no children?
A: I conducted investigations, even some of them were old Christians.

Q: How many persons did you ask regarding this matter?
A: There were about three persons namely, Apa Ulod, Amado and Datu Maway. They were the people I asked during my investigation. [85]

With Ignacio's admission, his testimonies as to the ancestry of the spouses Ende cannot be given any probative value. Even under the exception to the hearsay rule, the information regarding the Endes' pedigree derived from Datu Pinantao, a certain Datu Elib Ulod and Datu Maway, is not admissible as

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[85] TSN (Ignacio Ikling), September 13, 1996, pp. 31-38.

Pinantao himself testified in court and Datu Elib Ulod and Datu Maway's relationship with the plaintiffs and petitioners was not clearly established. Mere mention that they were related by affinity to Butas is not sufficient.[86] Plaintiffs should have presented Datu Elib Ulod and Datu Maway themselves to testify based on their personal knowledge of the facts surrounding Endes' relatives and/or surviving heirs. Besides, there is no evidence on record that Datu Elib Ulod and Datu Maway were unable to testify in court. Hence, Ignacio's statement that petitioners' father is not Butas but a certain Aso Ende, who is a son of Adtog, the brother of Butas, and their mother is Ayab Arog, is without any factual basis.

Second, Pinantao testified that he is related to the spouses Ende through his father-in-law Bayawan, who is a brother of Butas. Aside from Bayawan, he likewise testified that Butas has two brothers, Bacag and Adtog, and three sisters namely, Dayen, Ayan, and Katiyayan. He also declared that petitioners Amlayon and Quezon are the sons of Damagi's first cousin, Ayab Arog, but he could not remember the name of their father. However, Ikling never mentioned that Bayawan is a brother of Butas, contrary to Pinantao's claim.

Also, it bears noting that Pinantao's relation to the Endes is through affinity since he married a daughter of Bayawan, who is allegedly a brother of Butas. Inasmuch as he testified on his own personal knowledge, his credibility as to the family relations of the Endes will not suffice as he himself admitted that he is merely related to the spouses Ende by marriage, in contrast to the testimonies of Elena and Marino, as well as Laureana and Cristina, who were collateral blood relatives of Butas, through the latter's brother, Bangkas.

Further, both Ikling and Pinantao omitted to mention Bangkas as a brother of Butas. However, upon examination on how Felipe was related to Butas, Ikling declared that Felipe married a niece of Butas and daughter of Bangkas named Owo Ende,[87] which shows that Butas and Bangkas are brothers. This, however, was contradicted by Pinantao who testified that Felipe was married to Awo Bayawan, a daughter of Bayawan. Pinantao averred that his wife Okya Bayawan and Awo Bayawan are sisters.[88] If it is true that Pinantao is related to the spouses Ende through his wife Okya Bayawan, there is no reason why he cannot join the herein case as plaintiff to represent his wife's alleged share in the spouses Ende's property, in the same manner as Felipe who represented his wife Awo Bayawan. On this fact alone, Pinantao and Ikling's testimonies were rendered without any credibility.

Third, Amado's testimony on the brothers of Butas contradicted that of Ikling and Pinantao when he declared that Butas' brothers were Bacag, Bangkas, and Adtag, and his two sisters were Dayem and Katiyagan.[89] He testified that

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86 Id. at 43-44.
87 TSN (Amado Pinantao), December 13, 1996, p. 24.
88 Id. at 19.
89 TSN (Amado Ende/Bacag), April 4, 1997, p. 11.

he is related to Butas through his father Bacag, and that he lived since birth with the spouses Ende, who had no children. He claimed that petitioners Quezon and Amlayon were the sons of Aso Ende, the son of Adtag. Notably, Amado omitted to mention Bayawan as one of Butas' brothers, in contrast to Pinantao's testimony. Also, although he claimed to have lived with the spouses Ende since birth, he nonetheless did not, as an alleged heir, object to or take part in the sale executed by Inacara, Joseph, Ayonan, and Ayan of the respective portions of the land owned by the spouses Ende.

Fourth, Marita Mendoza (Marita), the daughter of plaintiff Felipe, testified that her mother Agida Ende is the daughter of Bangkas, who is a brother of Butas.[90] This is inconsistent with the testimony of Pinantao that Felipe married the daughter of Bayawan. Contrary to Ikling and Pinantao's testimonies that omitted Bangkas as one of Butas' brothers, Marita declared that Butas had three brothers, Bangkas, Udtog, Bacag, and two sisters, Dayem and Batiayan.[91] She further testified that petitioners Amlayon and Quezon are the grandchildren of Udtog. However, upon interrogation, she denied having known Inacara and Joseph despite her claim that she had been living near the Ende's property[92] and the overwhelming evidence showing that Inacara and Joseph occupied the subject property and even signed several documents of sale.

Also, Marita initially declared that Udtog had only two sons namely, Uyab and Ayan,[93] contrary to Ikling and Amado's claim that petitioners are the sons of Aso Ende, a son of Udtog or Adtag. Later, she admitted that Aso is also a son of Udtog or Adtag. Marita explained her inconsistency and failure to recollect the names and identities of her relatives by claiming that such information was only relayed to her and not based on her own personal knowledge.[94]

We find it quite baffling why plaintiffs' witnesses were so certain of petitioners Amlayon and Quezon's filiation but were inconsistent with the names and identities of their own relatives from whom they claim their heirship. Ikling and Pinantao even resorted to interviewing certain individuals and prepared a family genealogy to show the spouses Ende's family relations but failed to identify Butas' siblings. This only shows that they had no personal knowledge of the circumstances surrounding Ende's heirs and petitioners' filiation. Neither can their testimonies be admitted as an exception to the hearsay rule in the absence of evidence of relationship of the declarants to the spouses Ende and to herein plaintiffs and petitioners.

Even assuming that petitioners Amlayon and Quezon are sons of Aso Ende, who is a son of Butas' brother, Udtog or Adtag, this makes them a grandnephew of Butas. On this score, plaintiffs failed to sufficiently explain why petitioners

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90 TSN (Marita Mendoza), June 25, 1998, p. 5.
91 Id. at 7.
92 Id. at 16-17.
93 Id. at 25.
94 Id. at 29 and 32.

Amlayon and Quezon, who were somehow similarly situated with the plaintiffs, were inadvertently excluded as alleged co-heirs in the subject property. Petitioners Amlayon and Quezon were not even invited to attend the meeting hosted by Ikling to recover the subject property. These acts of plaintiffs rendered their testimonies doubtful and suspicious.

Based on the foregoing, it is clear that between the positive affirmation of petitioners' witnesses, that Amlayon and Quezon are the legitimate children of the spouses Ende, and the denial of plaintiffs' witnesses of petitioners' filiation with spouses Ende, the former shall prevail. Well-settled is the rule that great weight is accorded to the findings of fact of the trial court as it is in a better position to examine real evidence as well as to observe the demeanor of witnesses who testify in the case.[95] Clearly, petitioners' evidence is strong and convincing that they are the legitimate children of the spouses Ende and that they were driven out from their land upon the death of their parents. Hence, we declare petitioners Amlayon and Quezon to be the legal heirs of the spouses Ende.

With that conclusion, we come now to the determination of petitioners' claim over the subject property covered by OCT No. P-46114, which is registered in the name of Butas. As found by the RTC, Butas died before the war or in 1939. At that time, the Civil Code[96] was not yet in effect. The applicable law, therefore, at the time of Butas' death from whom petitioners Amlayon and Quezon, as well as Damagi, acquired their right, is the Spanish Civil Code of 1889. Although the court *a quo* correctly ruled that the right of the legal heirs to inherit became vested upon the death of the decedent, it erred in ruling that Damagi and petitioners Amlayon and Quezon each owned 1/3 of the entire subject property or about 7.4625 hectares each. Indisputably, Butas and Damagi were considered legally married and all the parties concerned did not offer any proof to the contrary. In fact, plaintiffs in Civil Case No. 1069, herein petitioners, and respondents, all submit to the fact that Butas and Damagi were legally married.

Under the Spanish Civil Code, all the estate of the married couple is considered as conjugal partnership property unless and until it is proven that it is a part of the separate estate of the husband or the wife.[97] Even if the title of the property shows that it was in the name of either the husband or wife only, the same is presumed part of the conjugal partnership in the absence of evidence that the acquisition was made with the money belonging exclusively to one of the spouses.[98]

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95 *Ferrer v. Court of Appeals*, 292 Phil. 301, 308 (1993).
96 REPUBLIC ACT NO. 386, *Civil Code of the Philippines*.
97 *Lim v. Garcia*, 7 Phil. 320, 321 (1907).
98 *Commonwealth of the Philippines v. Sandiko*, 72 Phil. 258, 260 (1941).

Patently, the subject property was registered solely in the name of Butas. However, in the absence of evidence that it was an exclusive property of Butas, the presumption exists that the same was acquired during his marriage to Damagi and therefore, part of the conjugal partnership. All the concerned parties did not offer any proof that the subject property was part of Butas' exclusive property. The Torrens Title or OCT No. P-46114 is not determinative of the nature of the subject property, whether it belongs to the paraphernal or conjugal partnership. In this case, We hold that the subject property covered by OCT No. P-46114 is part of the conjugal partnership of the spouses Ende. Consequently, upon the death of Butas in 1939, Damagi is entitled to one-half of the subject property or equivalent to 11 hectares and 190.385 square meters[99] as her inchoate share in the conjugal partnership.

As culled from the records, Butas died intestate and without any issue. To reiterate, since he died before the effectivity of the Civil Code or before 1950, the law applicable during his demise is the Spanish Civil Code. Article 913 of the Spanish Civil Code provides that in default of testamentary heirs, the law gives the estate to the legitimate and natural relatives of the deceased, the widow or widower and to the State subject to the rules set forth in the Code. Further, Article 931 of the said Code provides that legitimate children and their descendants succeed the parents and other ascendants, without distinction of sex or age, even though they spring from different marriages.

However, only in default of legitimate children and their descendants, ascendants, and acknowledged natural children, if any, may the collateral relatives and the surviving spouse inherit from the decedent.[100] Hence, with the existence of petitioners Amlayon and Quezon as Butas' legitimate children, Damagi, as Butas' widow, is therefore excluded to inherit from Butas. In this case, the remaining half of the subject property, *i.e.*, 11 hectares and 190.385 square meters, shall be divided equally among the legitimate children of Butas, *i.e.*, Amlayon, Matias, and Quezon. Since Matias died without any descendants who can inherit by right of representation, or surviving spouse, his share redounded to his brothers Amlayon and Quezon, who survived him, with each inheriting the estate of their father Butas in equal shares or equivalent to 5.5 hectares and 95.1925 square meters.[101]

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99 22 hectares, 38 *ares* (1 are = 100 sqm) and 77 *centares* (1 *centare* = 1/100 sqm) or 22 hectares, 380 square meters and 0.77 square meter
22 hectares, 380.77 square meters / 2 = 11 hectares and 190.385 square meters.

100 Article 946 of the Spanish Civil Code of 1889.
ARTICLE 946. In default of the persons included in the three sections next preceding the collateral relatives and the surviving spouse shall inherit in the order established by the following articles.

101 Article 947 of the Spanish Civil Code of 1889.
ARTICLE 947. Should the only survivors be brothers or sisters of the whole blood, they shall inherit in equal shares.

(b) Whether respondents Roman Catholic, Welhilmina, Acosta, Eliza and Juanito, Kintanar, Bagasmas, and Jessie and Corazon, validly acquired ownership over the respective portions of the subject property covered by OCT No. P-46114.

With the determination of the shares of Damagi, Amlayon and Quezon in the subject property covered by OCT No. P-46114, We come now to the resolution of the rights of herein respondents on the subject property through their respective documents of disposition. As found by the trial court, Damagi died in 1948 which means that any document disposing the subject property or any part thereof after Damagi's demise in 1948 produced no legal effect. In addition, Damagi is entitled only to 11 hectares and 190.385 square meters of the subject property which implies that she cannot validly transfer any right in excess of such area to any person.

A review of the records shows that Damagi executed several documents of disposition from 1943 until 1952, solely and/or together with Inacara, Joseph, Ayan, or Ayonan, namely: (a) mortgage contract dated October 9, 1943 executed by Damagi in favor of Vicente Encarnacion (Vicente) involving 5 hectares;[102] (b) deed of sale dated April 5, 1945 executed by Damagi in favor of Vicente involving 5 hectares;[103] (c) quitclaim deed dated November 13, 1946 executed by Damagi, Ayan and Inacara in favor of Bugnon Kawasa (Bugnon), wife of Vicente, involving 10 hectares;[104] (d) deed of sale dated February 18, 1947 executed by Damagi in favor Jose R. Zarza (Zarza) involving 4 hectares;[105] (e) deed of absolute sale dated July 10, 1947 executed by Damagi, Inacara, and Ayan in favor of Bugnon involving 11 hectares;[106] (f) deed of absolute sale dated July 2, 1949 executed by Damagi and Inacara in favor of Vicente involving one hectare;[107] and (g) deed of donation dated August 12, 1952 executed by Damagi in favor of Joseph involving 2.5 hectares.[108]

Assuming that indeed Damagi executed the foregoing documents of sale and deed of donation, she can only validly transfer her rights on the subject property to the extent of her share, *i.e.,* 11 hectares and 190.385 square meters. Article 399 of the Spanish Civil Code provides:

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102 Records, p. 438.
103 Id. at 439.
104 Id. at 442.
105 Id. at 451.
106 Id. at 444-445.
107 Id. at 447-448.
108 Id. at 425.

> ARTICLE 399. Each co-owner shall have the absolute ownership of his part, and of the fruits and benefits derived therefrom, and he may, therefore, sell, assign, or mortgage it, and even substitute another person in its enjoyment, unless personal rights are involved; **but the effect of the sale or mortgage, with respect to the other participants, shall be limited to the share which may be allotted him in the partition upon the dissolution of the community**. (Emphasis supplied.)

The above provision was essentially adopted in Article 493 of the Civil Code which thus provides:

> Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. **But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in division upon the termination of the co-ownership.** (Emphasis supplied.)

Indisputably, the subject property was covered by a Free Patent Application No. 51420[109] in the name of Butas. Consequently, Free Patent No. 28357 dated June 7, 1939 was issued. However, it was declared lost and/or destroyed. In lieu thereof, Free Patent No. 539305 was issued on June 15, 1973. Then, on September 9, 1974, OCT No. P-46114 was issued in the name of Butas.

It appears from the foregoing that upon the death of Butas in 1939, his wife Damagi, and his legitimate children, Amlayon and Quezon, became the undivided co-owners of subject property each with an undivided share in the subject property, *i.e.*, Damagi with 11 hectares and 190.385 square meters; and Amlayon and Quezon with 5.5 hectares and 95.1925 square meters each. Hence, any disposition of any part thereof without the consent of the others shall have no effect except as to portion that pertains to those who made them.[110]

It bears noting that the alienations, dispositions or documents of sale executed by Damagi alone or together with Inacara, Ayonan, Ayan or Joseph from 1943 until 1947 were in favor of spouses Vicente and Bugnon, and Zarza. As per the quitclaim deed dated November 13, 1946, Damagi, Ayan, and Inacara sold 10 hectares of the subject property to Bugnon for ₱970. It further provides that:

> It is, however, agreed by and between said Vendors and Vendee that this quitclaim deed is executed upon this express condition that all deeds, documents or instruments executed in favor of either BUGNON KAWASA or her husband (VICENTE ENCARNACION) are declared null and void and have no force and effect effective this date, by virtue of this document which nullifies all other contracts executed in favor of the interest of the herein Vendee;[111]

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109 Id. at 571.

110 *Punsalan v. Boon Liat*, 44 Phil. 320, 324 (1923).

111 Records, p. 442.

With the above provision in the quitclaim deed dated November 13, 1946, the mortgage contract dated October 9, 1943 (five hectares), and deed of sale dated April 5, 1945 (five hectares), executed by Damagi in favor of Vicente were declared null and void and have no force and effect. Since the total area, *i.e.*, 10 hectares, sold by Damagi to spouses Bugnon and Vicente as per quitclaim deed dated November 13, 1946 did not exceed her share in the subject property, *i.e.*, 11 hectares and 190.385 square meters, the same shall be considered valid disposition in favor of spouses Bugnon and Vicente from whom respondent Wilhelmina derived her rights.

Thereafter, Damagi executed a deed of sale dated February 18, 1947 in favor of Zarza involving 4 hectares for ₱650. However, since Damagi already sold 10 hectares in favor of spouses Bugnon and Vicente, she can only validly dispose her remaining share in the subject property, *i.e.*, 1 hectare and 190.385 square meters.[112] Hence, Zarza and his successors-in-interest are entitled only to one hectare and 190.385 square meters and not four hectares as stated in the deed of sale dated February 18, 1947. Therefore, the deed of absolute sale dated March 24, 1982 executed by Heirs of Zarza in favor of respondent Juanito is valid only to the extent of one hectare and 190.385 square meters.

Since all Damagi's share in the subject property had been transferred or conveyed already to third persons, the succeeding dispositions, alienations or other documents, namely: (a) affidavit dated July 10, 1947 executed by Damagi, Inacara and Ayan that Butas died in 1939 and that they are the latter's surviving heirs;[113] (b) deed of absolute sale dated July 10, 1947 executed by Damagi, Inacara and Ayan in favor of Bugnon with husband Vicente (11 hectares);[114] (c) deed of absolute sale dated July 2, 1949 executed by Damagi and Inacara in favor of Vicente Encarnacion (one hectare);[115] (d) deed of donation dated August 12, 1952 executed by Damagi to Joseph (2.5 hectares);[116] (e) deed of absolute sale dated July 20, 1963 executed by Joseph in favor of Corazon Flores (1.25 hectares);[117] (f) deed of absolute sale dated February 3, 1968 executed by Inacara, Joseph and Ayunan in favor of Vicente (two hectares);[118] (g) deed of absolute sale dated February 21, 1972 executed by Inacara, Joseph and Ayunan in favor of Ugalingan (two hectares);[119] (h) deed of absolute sale dated February 21, 1972 executed by Inacara, Joseph and Ayunan in favor of Roman Catholic (20,000 square meters);[120] (i) extrajudicial settlement with absolute deed of sale dated April 21, 1977 executed by Joseph and Ayunan in favor of Esperanza Zarza (20,034 square meters);[121] and (j) extrajudicial settlement dated June 3,

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112 11 hectares and 190.385 square meters – 10 hectares = 1 hectare and 190.385 square meters.
113 Records, p. 446.
114 Id. at 444-445.
115 Id. at 447-448.
116 Id. at 425-A.
117 Id. at 425.
118 Id. at 449.
119 Id. at 457.
120 Id. at 426.
121 Id. at 476-477.

1981 with absolute deed of sale executed by Joseph and Ayunan in favor of Felomina Zarza (40,000 square meters),[122] executed by Damagi and other alleged heirs of Butas, are in effect a nullity and did not transfer any right over the subject property. As can be gleaned from the above enumerated documents, the alleged heirs signing and executing the deeds of dispositions or alienations, are not consistent. Some documents were executed by Damagi alone and some were signed by or together with Inacara, Joseph, Ayunan and/or Ayan.

Even with their own declaration in several extrajudicial settlements of estate of Butas that they are the latter's legal heirs, the documents of sale still vary as to who conveys, transfers or sells the rights on or any portion of the subject property. If indeed they have the same right on the subject property as alleged heirs of Butas, they would have participated in each deed or document as it constitutes an alienation of his or her inchoate right on the subject property. In fact, no one from among the alleged heirs of Butas, *i.e.*, Inacara, Joseph, Ayunan or Ayan, repudiated the other sale transactions which they were not a part of or waived their rights thereon.

Consequently, with the nullity of the deed of donation dated August 12, 1952[123] allegedly executed by Damagi in favor of Joseph (2.5 hectares), the conveyance of 1.25 hectares by Joseph to respondent Corazon as per deed of absolute sale dated July 20, 1963;[124] and the conveyance made by respondent Corazon to Kintanar as per deed of absolute sale dated April 21, 1977[125] (12,500 square meters), are considered without any legal effect.

Similarly, the sale of two hectares by Inacara, Joseph, and Ayunan to respondent Roman Catholic as per deed of absolute sale dated February 21, 1972[126] is a nullity as the alleged heirs have no right whatsoever over the subject property to transfer. In addition, the deed of absolute sale dated February 18, 1958[127] involving two hectares executed by a certain Elena Labastida (Elena) in favor of respondent Roman Catholic is also considered null and void. Elena's right to transfer or convey rights on the subject property was based on a quitclaim deed dated May 12, 1955[128] executed by a certain Juana Comendador who, in turn, allegedly acquired her rights from a quitclaim executed by the alleged heirs of Butas.

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122 Id. at 474-475.
123 Id. at 425.
124 Id. at 425-A.
125 Id. at 482.
126 Id. at 426.
127 Id. at 424.
128 Id. at 423.

As to the two hectares sold by Ugalingan to spouses Welhilmina and Ignacio Generalla as per absolute deed of sale dated August 12, 1974,[129] that was superseded by absolute deed of sale dated July 8, 1975,[130] the same is likewise null and void and produces no legal effects. The same is true with the conveyances made by Felomina Zarza to: (a) respondent Eliza as per deed of absolute sale dated December 22, 1981[131] (20,034 square meters); and (b) respondent Acosta as per deed of absolute sale dated June 9, 1984[132] (13,900 square meters).

From the above dispositions or deeds of sale, not one has been registered or duly annotated in OCT No. P-46114. Since the title was duly issued on September 9, 1974, the parties, who acquired their rights over the subject property by virtue of deeds of sale executed after the issuance of title, cannot merely rely on the declarations of the alleged heirs or sellers as the title patently states that it is registered in the name of Butas. The purchasers should have examined the certificate of title and all factual circumstances necessary for them to determine whether or not flaws existed that might invalidate their title,[133] especially when these purchasers acquired the subject property or a portion thereof from persons who are not the registered owners and whose alleged rights were not registered or duly annotated on the title.

Well-settled is the rule that "a purchaser of real estate with knowledge of any defect or lack of title of the vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or interest therein."[134] The same rule also applies to those with knowledge of facts that should have put one on inquiry and investigation as might be necessary to be acquainted with the defects in the title of the vendor,[135] as in the case at bar. The respondents' willful refusal to believe that a defect exists in the vendors' title or the possibility of its existence will not make them innocent purchasers for value if a defect indeed occurs.[136] A buyer of registered land is expected to act with the diligence of a prudent man, otherwise, he or she cannot be deemed as a purchaser in good faith.[137]

This foregoing is true especially with the transactions made by (a) Ugalingan in favor of Ignacio Generalla as per absolute deed of sale dated July 8, 1975;[138] (b) respondent Corazon in favor of Kintanar as per deed of absolute sale dated April 21, 1977;[139] (c) Joseph and Ayunan in favor of Esperanza Zarza

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129 Id. at 458.
130 Id. at 459.
131 Id. at 470.
132 Id. at 478.
133 *Voluntad v. Spouses Dizon*, 372 Phil. 82, 91 (1999).
134 Id.
135 Id.
136 Id.
137 Id.
138 Records, p. 459.
139 Id. at 482.

as per extrajudicial settlement with deed of absolute sale dated April 21, 1977;[140] (d) Joseph and Ayunan in favor of Felomina Zarza as per extrajudicial settlement with deed of absolute sale dated June 3, 1981;[141] (e) Felomina Zarza in favor of respondent Eliza as per deed of absolute sale dated December 22, 1981;[142] (f) respondent Zarza in favor of respondent Juanito Diaz as per deed of absolute sale dated March 24, 1982;[143] and (g) Felomina Zarza in favor of respondent Acosta as per deed of absolute sale dated June 9, 1984,[144] as during those dispositions, the subject property's Torrens title, *i.e.*, OCT No. P-46114, was already issued in the name of Butas.

Even prior to the issuance of OCT No. P-46114, the documents of sale and/or disposition described the subject property as covered by a free patent application in the name of Butas. Although it is not yet registered under the Torrens system, the purchasers or herein respondents should have been apprised of the nature and status of the subject property as to who are the legal heirs of Butas. In fact, numerous extrajudicial settlements of estate were executed by Damagi and the other alleged heirs of Butas to accommodate every buyer of a portion of the subject property, and to create a semblance of legality and a false warranty. Even respondent Roman Catholic admitted that several persons were claiming to be the legal heirs of the subject property that resulted in them paying these alleged heirs in order not to be disturbed in their possession.

In addition, respondents disclosed that they were not able to register their respective documents of sale or dispositions or have them duly annotated as it was contested by various individuals claiming to be the legal heirs of Butas. Also, respondents were not unmindful of the fact that Butas, a known Datu in Sudapin, Cotabato, is a member of an indigenous tribe, Manobo, which they should have taken into consideration in dealing with the alleged legal heirs or third persons claiming to have acquired rights over the subject property.

Also, it is worth mentioning that the RTC erroneously applied Article 1544 of the Civil Code in declaring that the respondents acquired the respective portions of Butas' land in good faith. Article 1544 applies to cases of double sale or when the same piece of registered land was sold to two different purchasers.[145] It provides that in case of double sale of an immovable property, ownership shall be transferred (a) to the person acquiring it who in good faith first recorded it in the Registry of Property; (b) in default thereof, to the person who in good faith was first in possession; and (c) in default thereof, to the person who present the oldest title, provided there is good faith. Evidently, there is no double sale in the case at bar. The present case pertains to quieting of title and recovery of possession by the legitimate heirs of Butas against the respondents who purchased respective portions of the subject property from the alleged heirs

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140 Id. at 476-477.
141 Id. at 474-475.
142 Id. at 140.
143 Id. at 469.
144 Id. at 478.
145 *Radiowealth Finance Co. v. Palileo*, 274 Phil. 516, 521-522 (1991).

of Butas.

To reiterate, not one of the purchasers of the respective portions of the subject property protected their rights by registering their documents of sale or having them duly annotated upon the issuance of title. Respondents heavily anchored their rights over the subject property on the various notarized affidavits, quitclaim deeds, extrajudicial settlements, and deeds of absolute sale executed by Damagi alone or together with Inacara, Joseph, Ayunan or Ayan, stating that she was the surviving spouse of Butas, and they had no legitimate children. The fact that these documents were duly notarized make them public documents under Section 19, Rule 132 of the Rules of Court, that creates a *prima facie* presumption of the fact and date of their execution.[146] It may be presented in evidence without further proof since the certificate of acknowledgment is considered *prima facie* evidence of the execution of the document involved.[147]

Although a public document executed and attested through the intervention of the notary public enjoys the presumption of regularity, this presumption is rebuttable by strong complete and conclusive proof,[148] that was sufficiently shown by petitioners Amlayon and Quezon, through their evidence presented and passed upon by the RTC and this Court. Hence, We cannot give credence to the statements allegedly made by Damagi alone or together with Inacara, Joseph, Ayunan and Ayan, that they are the legitimate heirs of Butas who have the right to inherit the subject property to the exclusion of petitioners Amlayon and Quezon. Neither can the respondents be considered in good faith when they relied merely on the representations of Damagi, Inacara, Joseph, Ayuna and Ayan, as they were informed of the ownership and the free patent application of Butas, as stated in the documents of sale and/or disposition, and the subsequent issuance of the OCT No. P-46114 registered in the name of Butas.

Moreover, Section 1, Rule 74 of the 1940 Rules of Court provides that:

> SECTION 1. *Extrajudicial Settlement by Agreement between Heirs.* — If the decedent left no debts and the heirs and legatees are all of age, or the minors are represented by their judicial guardians, the parties may, without securing letters of administration, **divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds**, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir or one legatee, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two years after the death of the decedent. (Emphasis and underscoring supplied.)

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146 RULES OF COURT, Rule 132, Section 23.
147 RULES OF COURT, Rule 132, Section 30.
148 *Instrade, Inc. v. Court of Appeals*, 395 Phil. 791, 800 (2000).

The above provision was amended and reiterated in Section 1, Rule 74 of the 1997 Rules of Court which thus provides:

> SECTION 1. *Extrajudicial settlement by agreement between heirs.* — If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may, without securing letters of administration, **divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds**, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. The parties to an extrajudicial settlement, whether by public instrument or by stipulation in a pending action for partition, or the sole heir who adjudicates the entire estate to himself by means of an affidavit shall file, simultaneously with and as a condition precedent to the filing of the public instrument, or stipulation in the action for partition, or of the affidavit in the office of the register of deeds, a bond with the said register of deeds, in an amount equivalent to the value of the personal property involved as certified to under oath by the parties concerned and conditioned upon the payment of any just claim that may be filed under section 4 of this rule. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two (2) years after the death of the decedent.
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> **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.**
> (Emphasis and underscoring supplied.)

Evidence on records shows that the following extrajudicial settlements, quitclaim deeds, and affidavits were executed and signed by Damagi, Inacara, Jonathan, Ayonan and/or Ayan stating that they are the heirs of Butas and are entitled to the latter's estate, namely: (a) sworn statement dated April 5, 1945;[149] (b) affidavit dated November 13, 1946 notarized by Gabriel V. Manuel;[150] (c) affidavit dated November 13, 1946 notarized by Raymundo Manuel;[151] (d) quitclaim deed dated November 13, 1946;[152] (e) joint affidavit dated July 10, 1947;[153] (f) quitclaim deed dated May 12, 1955;[154] (g) joint testimony dated April 1, 1968;[155] (h) affidavit dated April 6, 1971;[156] (i) extrajudicial settlement of estate dated February 21, 1972;[157] (j) extrajudicial settlement with absolute deed of sale dated April 21, 1977;[158] and (k) extrajudicial settlement with absolute deed of sale dated June 3, 1981,[159] were not registered with the Register of Deeds. Even the respondents, claiming to be in good faith upon the purchase

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149 Records, p. 440.
150 Id. at 441.
151 Id. at 443.
152 Id. at 442.
153 Id. at 446.
154 Id. at 423.
155 Id. at 454.
156 Id. at 455.
157 Id. at 456.
158 Id. at 476-477.
159 Id. at 474-475.

and/or possession of the respective portions of the land, failed to register the same with the Register of Deeds together with their respective documents of sale even at the onset of the 1997 Rules of Court. Thus, these extrajudicial settlements, quitclaim deeds and affidavits cannot bind herein petitioners Amlayon and Quezon as they did not participate thereon nor had been notified thereof.

(c) Whether petitioners Amlayon and Quezon are barred by the principle of laches to recover the ownership and possession of the subject property covered by OCT No. P-46114.

Lastly, respondents contend that petitioners' right to recover the subject property had already been barred by laches which is defined as *"such neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity."*[160] The essential elements of laches are, namely: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of; (2) delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant.[161]

In the instant case, the CA applied the doctrine of laches for failure of herein petitioners to pursue an action to recover the subject property from respondents for a considerable length of time. We do not agree.

Petitioner Amlayon testified that they failed to recover the subject property immediately from the dispositions made by Inacara, Joseph, Ayan, and Ayonan because they were driven away from the land and were threatened by the alleged heirs of Butas. This fact was corroborated by Elena, Marino, Laureana, and Cristina and was unrebutted by respondents. With petitioners Amlayon and Quezon not in possession of their land, they could not have known the various dispositions made by Inacara, Joseph, Ayan, and Ayonan after Damagi's death. Hence, they could not be expected to assert their right against the herein respondents. Also, petitioners Amlayon and Quezon's lack proper education and did not know the necessary legal procedures they should resort to in order to recover their land.

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160 *Rollo*, pp. 321-327.

161 *Heir of Cardenas v. The Christian and Missionary Alliance Churches of the Philippines, Inc.*, G.R. No. 222614, March 20, 2019, citing *Catholic Bishop of Balanga v. Court of Appeals*, 332 Phil. 207, 220 (1996).

Nonetheless, petitioner Amlayon averred that after the death of Inacara, he immediately went to the persons in possession of the subject property.[162] His daughter Leticia Bacalso (Leticia) supported the testimony of her father, Amlayon, that indeed the latter went to respondent Wilhelmina to claim back the subject property. In 1980, Wilhelmina and Amlayon were summoned by the Office for Southern Cultural Communities (OSCC) to settle and Wilhelmina even offered 10 hectares of land in Indangan in exchange of the portion of the land occupied by them but petitioner Amlayon did not agree with the proposal.[163] Prior to that, in 1970, petitioner Amlayon sought counsel from Ugalingan on how to recover their land as he had no knowledge on legal matters.[164] This was corroborated by the testimony of Laureana, Ugalingan's daughter.[165]

Moreover, Leticia testified that they went to the Register of Deeds to secure a copy of OCT No. P-46114 only to discover that it was a clean title as there were no annotations of any documents of sale or any conveyances on it.[166] She was able to retrieve two photocopies of the title and gave the other copy to petitioner Quezon.[167] However, petitioner Quezon sought advice from Ikling and gave the copy of the title to him because he thought Ikling would help them recover their land.[168] Thereafter, Ikling called a meeting, wherein herein witnesses Elena and Cristina attended, to recover Butas' land but petitioners Amlayon and Quezon were excluded from the said meeting.[169] Also, petitioners appeared before the barangay conciliation regarding the recovery of the subject property, wherein Felipe Vinluan (Vinluan), the representative of Diaz, Acosta and Kintanar, offered them land or money in exchange for not filing a case in court.[170] However, petitioners did not agree with Vinluan's proposal.[171] Later, in 1995, plaintiffs filed an action for quieting of title and recovery of possession that surprised petitioners as they were yet to gather and prepare more documents in support of their own case.[172]

These steps taken by petitioners to assert their right over the subject property were affirmed by the testimony of Laureana and Cristina. Laureana was a former employee of the OSCC and was present when petitioners Amlayon and Quezon sought assistance to recover their land.[173] The OSCC advised them to consult a counsel to assist them.[174] Also, Cristina testified that indeed

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162 TSN (Amlayon Ende), August 30, 2001, p. 34
163 TSN (Leticia Bacalso), November 20, 2001, pp. 22-24.
164 Id. at 24-25.
165 TSN (Laureana Bayawan), March 15, 2001, pp. 11-12.
166 TSN (Leticia Bacalso), November 20, 2001, pp. 26-27.
167 Id. at 31.
168 Id. at 32.
169 Id. at 33.
170 Id. at 5-7.
171 Id. at 8.
172 Id. at. 9.
173 TSN (Laureana Bayawan), March 15, 2001, pp. 37-39, 46-48.
174 Id. at 35.

petitioners slowly gathered documents in support of their case.[175] She even advised Leticia regarding the recovery of the subject property[176] and accompanied her to the Register of Deeds to retrieve a copy of the title, and in the barangay conciliation involving the subject property in 1995.[177]

The foregoing acts of petitioners belie the claim that they slept on their rights. To reiterate, petitioners Amlayon and Quezon were prevented from going into the subject property because of Inacara's threats. However, upon Inacara's death, petitioners gradually prepared the documents needed to recover the subject property and asked advice from certain individuals and institution. Although they did not immediately file a case in court, this does not mean that laches already set in against their favor. It must be pointed out that petitioners consistently asserted their rights as legal heirs of the spouses Ende outside of court but due to certain circumstances, they were unable to properly file the same for the court's consideration.

Laches does not imply that a case in court must be filed in order that it may not be successfully invoked. It merely requires *"delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue."* We cannot blame petitioners Amlayon and Quezon from not filing immediately in court since they were still in the process of collating the necessary documents in support of their right. To note, they immediately intervened in the case after having knowledge of the case filed by herein plaintiffs. This shows that petitioners were serious in asserting their right against the herein plaintiffs, who were claiming to be the alleged heirs of the spouses Ende and in the recovery of the subject property from respondents.

Moreover, the subject property is registered under the Torrens system. Section 47 of Presidential Decree No. 1529 states that "[n]o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession." Therefore, the right to recover possession of registered lands is imprescriptible on the part of the registered owner because possession is a mere consequence of ownership.[178] Also, acquisitive prescription or adverse possession, no matter how long, is unavailing even to the registered owner's hereditary heirs as the latter simply steps into his or her shoes by operation of law and are merely the continuation of the personality of their predecessor-in-interest.[179] In this case, the possession of herein respondents cannot ripen into ownership by acquisitive prescription or adverse possession as the certificate of title, *i.e.*, OCT No. P-46114, serves as evidence of an indefeasible title to the property in favor of the person whose names appear therein.[180]

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175 TSN (Cristina Carbonel), July 24, 2001, p. 13.
176 Id. at 14.
177 Id. at 14-15.
178 *Heir of Cardenas v. The Christian and Missionary Alliance Churches of the Philippines, Inc.*, supra note 160, citing *Umbay v. Alecha*, 220 Phil. 103, 107 (1985).
179 Id.
180 Id.

In sum, We declare petitioners Amlayon and Quezon to be the legal heirs of Butas Ende. Amlayan and Quezon are each entitled to an inchoate share of 5.5 hectares and 95.1925 square meters of the subject property covered by OCT No. P-46114. On the other hand, Damagi is entitled to an inchoate share of 11 hectares and 190.385 square meters of the subject property. Consequently, Welhilmina, and Zarza and his successor-in-interest Juanito, having derived their ownership from Damagi, are entitled only to an inchoate share of 10 hectares; and one hectare and 190.385 square meters, respectively. Accordingly, We declare Amlayon, Quezon, Welhilmina, Juanito, and their respective successors-in-interest to be co-owners of the subject property with each entitled to their respective inchoate share. Thus, having acquired only an inchoate share in the subject property, *i.e.,* 10 hectares; and one hectare and 190.385 square meters, respectively, respondents Welhilmina and Juanito and their respective successors-in-interest cannot adjudicate to themselves or claim title to any definite portion of the subject property until its actual partition by agreement or judicial decree.[181]

Consequently, the ownership of the subject property covered by OCT No. P-46114 should remain in Butas' estate. As co-owners, Welhilmina and Juanito's possession of the respective portions of the subject property is merely as trustees for the other co-owners Amlayon, Quezon and their respective successors-in-interest.[182] The co-owners Amlayon, Quezon, Welhilmina and Juanito and their respective successors-in-interest may seek recourse from available remedies under prevailing laws, rules and jurisprudence to properly partition the subject property in accordance with their respective inchoate shares.

On the other hand, respondents Roman Catholic, Eliza, Jesus, Kintanar, Bagasmas, and Jessie and Corazon, and their successors-in-interest are ordered to immediately vacate the respective portions of the land they occupied and surrender the possession thereof to herein petitioners Amlayon and Quezon, and respondents Welhilmina and Juanito, and their respective successors-in-interest. This is notwithstanding petitioners' *ex-parte* motion[183] to exclude from the resolution of this case the two-hectare portion of the subject property occupied by respondent Roman Catholic that shall remain as property of the latter free from liens and encumbrances, which is not proper.

Since the respondents Roman Catholic, Eliza, Jesus, Kintanar, Bagasmas, and Jessie and Corazon, and their successors-in-interest were in bad faith, they lose anything built, planted or sown on the respective portions of the land without right to indemnity.[184] The co-ownership may "demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land,

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181 *Carvajal v. Court of Appeals*, 197 Phil. 913, 917 (1982).
182 *Deiparine v. Court of Appeals*, 360 Phil. 51, 63 (1998).
183 *Rollo*, pp. 428-429.
184 CIVIL CODE, Article 449.

and the sower the proper rent."[185] In addition, the co-owners are entitled to payment for damages.[186]

However, respondents are entitled to the reimbursement of the necessary expenses of the preservation of the land. But despite such, respondents cannot continue in possession of the respective portions of the subject property pending reimbursement of the necessary expenses.[187] Hence, this Court finds a need to remand the case to the court *a quo* to determine the rights and obligations of the parties with respect to the improvements, works and/or plantings made by respondents on the respective portions of the land in accordance with Article 449 in relation to Articles 450, 451, 452 and the first paragraph of Article 546 of the Civil Code.

WHEREFORE, the instant petition is hereby **GRANTED**. The assailed July 23, 2009 Decision and March 10, 2010 Resolution of the Court of Appeals in CA-G.R. CV No. 00272-MIN are hereby **REVERSED** and **SET ASIDE**. We **DECLARE** petitioners Amlayon Ende and Quezon Ende to be the legal heirs of Butas Ende and are each **ENTITLED** to an inchoate share of 5.5 hectares and 95.1925 square meters of the subject property covered by OCT No. P-46114 while Damagi Arog, as the legal wife of Butas Ende, is **ENTITLED** to an inchoate share of 11 hectares and 190.385 square meters.

Respondents Welhilmina Generalla and Juanito Diaz, as successors-in-interest of Damagi, are entitled to an inchoate share of 10 hectares; and one hectare and 190.385 square meters, respectively.

The ownership of the subject property covered by OCT No. P-46114 remains with the estate of Butas Ende with Amlayon Ende, Quezon Ende, Damagi Arog and the latter's successor-in-interest, Welhilmina Generalla and Juanito Diaz having only their respective inchoate interests therein.

Respondents Roman Catholic Prelate of the Prelature Nullius of Cotabato, Inc., Eliza Diaz, Jesus Acosta, Florentino Kintanar, Primo Bagasmas, Jessie Flores and Corazon Flores and their respective successors-in-interest are **ORDERED** to immediately vacate and surrender the possession of the respective portions of the subject property occupied by them to co-owners Amlayon Ende, Quezon Ende, Welhilmina Generalla and Juanito Diaz and their respective successors-in-interest.

We **REMAND** the case to the court *a quo* for the proper application of Article 449 in relation to Articles 450, 451, 452 and the first paragraph of Article 546 of the Civil Code with respect to the improvements, works and/or plantings made on the subject property as herein discussed.

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185 CIVIL CODE, Article 450.
186 CIVIL CODE, Article 451.
187 CIVIL CODE, Article 546.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

HENRI JEAN PAUL B. INTING
Associate Justice

On official leave
SAMUEL H. GAERLAN
Associate Justice

On official leave.
JAPAR B. DIMAAMPAO
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.

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 Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice