Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

MARCIAL O. DAGOT, JR., NELLY D. ALANGADI, TERESITA D. DALOJO AND THE HEIRS OF EVANGELINE D. EBUENGA,
Petitioners,

- versus -

SPOUSES GO CHENG KEY AND CHUA SIONG KUAN, TERESITA DIMALANTA AND CEFERINO DIMALANTA, REYNALDO GO AND JUDY GO, LOLITA ZABALA AND ROBERTO ZABALA, JOY GARCIA AND EDUARDO GARCIA, BERNARDO GO, FERDINAND GO, AND THE REGISTER OF DEEDS - PUERTO PRINCESA CITY,
Respondents.

G.R. No. 211309

Present:

GESMUNDO, *C.J.*,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, *JJ.*

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MARCIAL O. DAGOT, JR., NELLY D. ALANGADI, TERESITA D. DALOJO AND THE HEIRS OF EVANGELINE D. EBUENGA,
Petitioners,

G.R. No. 211957

- versus -

SPOUSES GO CHENG KEY AND CHUA SIONG KUAN, TERESITA DIMALANTA AND CEFERINO DIMALANTA, REYNALDO GO AND JUDY GO, LOLITA ZABALA AND ROBERTO ZABALA, JOY GARCIA AND EDUARDO GARCIA, BERNARDO GO, FERDINAND GO, AND THE REGISTER OF DEEDS - PUERTO PRINCESA CITY,
Respondents.

Promulgated:
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DECISION

HERNANDO, *J.*:

Before the Court are two Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated October 11, 2013, and the Resolution[2] dated February 11, 2014, of the Court of Appeals (CA) in CA-G.R. CV No. 95232. The appellate court denied the appeal and the subsequent Motion for Reconsideration filed by Marcial O. Dagot, Jr. (Dagot, Jr.), Nelly D. Alangadi (Alangadi), Teresita D. Dalojo (Dalojo), and the Heirs of Evangeline D. Ebuenga (Ebuenga; collectively, petitioners/Dagot et al.), and affirmed the ruling of the Regional Trial Court (RTC) of Puerto Princesa City, Palawan, Branch 95. The trial court, in its Order[3] dated March 31, 2010, dismissed the complaint on the ground that Dagot et al.'s action for reconveyance of registered land based on implied trust has long prescribed.

The Facts

Dagot et al. claimed that they are the children and heirs of the late spouses Marcial Dagot, Sr. (Dagot, Sr.) and Maxima Oblan (Oblan).[4] Dagot, Sr. was the registered owner of a parcel of land with an area of 17.0229 hectares located in Barangay Tagburos (now San Jose), Puerto Princesa City, and registered under Original Certificate of Title (OCT) No. G-558 (subject property).[5] Dagot, Sr. died intestate on September 16, 1949. On November 19, 1960, Dagot et al. and

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[1] CA *rollo*, pp. 133–144. The October 11, 2013 Decision in CA-G.R. CV No. 95232 was penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Magdangal M. De Leon and Stephen C. Cruz of the Eleventh Division, Court of Appeals, Manila.

[2] *Id.* at 184–185.

[3] RTC records, book II, pp. 488a–496a.

[4] RTC records, book I, p. 2.

[5] *Id.* at 2 and 9.

Oblan executed an Extra-Judicial Settlement with Sale of 11 hectares, more or less, of the subject property in favor of Pelagia P. Ebro (Ebro).[6]

When the Extra-Judicial Settlement with Sale was presented for registration, the copy of OCT No. G-558 cannot be retrieved from the vault at the Office of the Register of Deeds. Thus, OCT No. G-558 was administratively reconstituted pursuant to Republic Act No. 26 and the annotation dated December 14, 1960 of the Extra-Judicial Settlement with Sale was made on the reconstituted copy under Entry No. 2137. The reconstituted copy bore only this annotation because prior annotations were not carried over.[7]

On August 4, 1961, without giving notice to Dagot et al., Ebro commissioned a subdivision survey of the subject property. Transfer Certificate of Title (TCT) No. T-1220 was issued in Ebro's name, which was complete with technical description, and covered an area consisting of 130,227 square meters or more than 13 hectares.[8]

On July 10, 1964, Ebro sold to spouses Go Cheng Key and Chua Siong Kuan (spouses Key) the whole property covered by TCT No. T-1220, resulting to the cancellation of the same and the issuance of TCT No. T-1533. Sometime in 1989, the spouses Key divided the subject property into seven lots. A few years later, on August 20, 1993, the Keys donated these seven lots to the other respondents, which resulted to the issuance of TCT Nos. T-1220, T-1533, 18927, 18928, 18929, 18930, 18931, 18932, and 18933.[9]

When the original copy of OCT No. G-558 was finally recovered, it was noted that there were annotations therein which were made prior to the reconstituted copy. In particular, the annotations referred to three separate deeds of sale made by Oblan covering four hectares of the subject property, as follows:

a. Entry No. 593 which is an Absolute Deed of Sale dated January 12, 1955 executed by Maxima Oblan selling a hectare in favor of F.M. San Diego;
b. Entry No. 963 which is an Absolute Deed of Sale dated January 12, 1955 executed by Maxima Oblan covering a hectare of land in favor of Neciforo Garcellano; and
c. Entry No. 1378 which is a Deed of Sale dated February 12, 1959 executed by Teodulo Mingua for two hectares.[10]

The portions bought by Mingua and San Diego were later conveyed by both parties to Go Cheng Key. The portion bought by Garcellano was sold to

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[6] *Id.* at 3.
[7] *Rollo* (G.R. No. 211957), p. 55; RTC records, book I, p. 360.
[8] Rollo (G.R. No. 211957), p. 41.
[9] *Id.* at 56.
[10] RTC records, book I, p. 361.

and now owned by Lolita Go Zabala. Respondents, therefore, occupied the whole 17 hectares parcel of land formerly registered under OCT No. G-558.[11]

In their Complaint[12] dated September 22, 1999 filed before the RTC, Dagot et al. sought the annulment/cancellation of TCT Nos. T-1220, T-1533, 18927, 18928, 18929, 18930, 18931, 18932, and 18933. They alleged that the title issued to Ebro and all subsequent titles thereto are void because it exceeded 11 hectares of the subject property that was sold by the petitioners to Ebro. Hence, the subdivision survey of the subject property dated August 4, 1961 should be invalidated and a new subdivision survey should be ordered to segregate the 11 hectares, in accordance with the provisions of the Extra-Judicial Settlement with Sale dated November 19, 1960.[13]

Respondents, in their Answer [14] with affirmative defenses and counterclaim, averred that Dagot et al. have no valid cause of action because respondents were innocent purchasers for value. Respondents insisted that they simply relied on the presumed validity of Ebro's title. Respondents further argued that Dagot et al.'s cause of action to nullify the Extra-Judicial Settlement with Sale dated November 16, 1960 and the survey dated August 4, 1961 had already prescribed and is barred by laches.[15]

After a trial on the merits, the lower court issued a Decision[16] dated May 19, 2009, in favor of Dagot et al. The RTC held that Ebro's title insofar as the excess two hectares is concerned is void for lack of proper and valid mode of disposition conveying ownership in her favor. Moreover, the RTC found that TCT No. T-1220 registered in the name of Ebro contained errors so manifest that respondents cannot be considered innocent purchasers for value. The lower court then emphasized that a registered land cannot be acquired by prescription. Hence, the dispositive portion reads:

> WHEREFORE, premises considered, judgment is hereby rendered:
>
> 1. Upholding the validity, existence and indefeasibility of OCT No. G-558 with regard to the remaining two (2) hectares;
> 2. Declaring the registration and inclusion of the two (2) hectares in TCT No. T-1220 and TCT No. T-1533 issued in the name of Pelagia Ebro and of Go Cheng Key, respectively, as null and void;
> 3. Declaring the subdivision survey dated August 4, 1961 and all others subsequent thereto as null and void, and ordering the conduct of a new survey to segregate, separate and identify the two (2) hectares parcel of land from the technical description appearing in TCT No. T-1220 or TCT No. T-1533 and return the same as the new technical description for, appearing at and covered by OCT No. G-558;

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[11] *Id.*
[12] *Rollo* (G.R. No. 211957), p. 40.
[13] *Id.* at 40–41.
[14] *Id.* at 42.
[15] *Id.* at 42–43.
[16] RTC records, book I, pp. 360–365.

4. Declaring as null and void the registration and inclusion of such portion that forms part of the two hectares of plaintiffs in each of the following certificates of title:
    1. TCT No. 18933;
    2. TCT No. 18927;
    3. TCT No. 18931;
    4. TCT No. 18932;
    5. TCT No. 18929;
    6. TCT No. 18928;
    7. TCT No. 18930; and
    8. All other certificates emanating from them;
5. Ordering the surrender of the above enumerated Transfer Certificates of Title with the Register of Deeds of Puerto Princesa City, immediately after the two (2) hectares have been identified, for their amendment and reduction in size and area in such ratio and proportion of the share actually received by each from Go Cheng Key; and
6. Directing defendants, their successors-in-interest and all persons [sic] acting for and in their behalf to vacate and peacefully turn over possession to plaintiffs the two (2) hectares that will be identified by the survey.[17]

[IT IS SO ORDERED].

Respondents filed a motion for reconsideration on June 4, 2009, which was denied by the lower court in an Order[18] dated October 15, 2009. However, on November 4, 2009, when the counsel for respondents personally received the Order dated October 15, 2009, respondents filed an *Urgent Manifestation on the October 15, 2009 Order Denying the May 31, 2009 Motion for Reconsideration* (Urgent Manifestation). In its Order[19] dated November 10, 2009, although the trial court considered the Urgent Manifestation as a second motion for reconsideration, it nonetheless allowed the same as it raised "new [issues] not raised before . . . such as the concept of trust, among others."[20] In the same Order, the trial court also tolled the running of the 15-day period to file an appeal.

Acting on the motion for reconsideration, the trial court issued an Order dated May 31, 2010, reversing its Decision dated May 19, 2009, and dismissing the complaint. The lower court noted that, prior to the execution of the Extra-judicial Settlement with Sale on November 16, 1990, Oblan had already sold four of the 17 hectares to several persons. Thus, Dagot et al. owned only the remaining 13 hectares of the subject property at the time they executed the extra-judicial settlement with sale in 1990. The lower court also found that the inclusion of the additional two hectares in the property covered by TCT No. T-1220 in the name of Ebro was made by mistake. In reversing its own Decision, the trial court cited Article 1456 of the Civil Code, which provides that the person obtaining property acquired through mistake or fraud is considered a

[17] *Id.* at 365.
[18] *Id.* at 411–414.
[19] RTC records, book II, p. 465.
[20] RTC records, Book I, p. 465.

trustee of an implied trust for the benefit of the person from whom the property comes. An action for the reconveyance of a parcel of land based on implied or constructive trust must be filed within 10 years from discovery of the mistake or fraud. In this case, Section 52 of Presidential Decree No. 1529 provides that the date of registration of the subject property serves as a constructive notice to all. Since Ebro's title was registered on July 18, 1962 and the petitioners' complaint was only filed on September 22, 1999, the trial court concluded that petitioners' cause of action had prescribed.

Aggrieved, petitioners elevated the present case before the CA.[21]

At this juncture, it is worthy to mention that petitioners were represented by Atty. Robert Y. Peneyra (Atty. Peneyra) since the filing of the Complaint on September 22, 1999. On August 22, 2012, Atty. Lester Alvarado Flores (Atty. Flores) filed an Entry of Appearance before the appellate court as a collaborating counsel for petitioners.[22]

The appellate court, in its assailed Decision dated October 11, 2013, denied the appeal. The dispositive portion of the CA Decision reads:

> **WHEREFORE**, the appeal is Denied. The order dated March 31, 2010 issued by the Regional Trial Court of Palawan, Puerto Princesa City Br. 95 in Civil Case No. 3364 is affirmed.
>
> **SO ORDERED.**[23]

The CA affirmed the trial court's dismissal of the complaint on the ground of prescription. The CA considered the complaint as an action for reconveyance, which falls under Article 1456 of the Civil Code. Citing the cases of *Mendizabel v. Apao*[24] and *Lasquite v. Victory Hills*,[25] the appellate court emphasized that an action for reconveyance based on an implied trust prescribes in 10 years except when the plaintiff as real owner is in possession of the property. If a person claiming to be its owner is in actual possession of the property, the right to seek reconveyance, which in effect seeks to quiet title to the property does not prescribe.[26]

Here, it is undisputed that respondents are occupying the whole property, which necessarily includes the additional two hectares of land in question. Considering that the period to file an action for reconveyance prescribes in 10 years from the date of registration of the deed or the date of the issuance of the certificate of title over the property, and since petitioners filed their complaint

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[21] RTC records (RTC Book II), p. 497.
[22] CA *rollo*, p. 129.
[23] *Rollo* (G.R. No. 211957), pp. 49–50.
[24] *Mendizabel v. Apao*, 518 Phil. 17, 35 (2006) [Per J. Carpio, Third Division].
[25] *Lasquite v. Victory Hills*, 608 Phil. 418, 434 (2009) [Per J. Quisumbing, Second Division].
[26] *Mendizabel v. Apao*, 518 Phil. 17, 38–39 (2006) [Per J. Carpio, Third Division].

only on September 22, 1999 or around 37 years after the registration of TCT No. T-1220 in the name of Ebro, the action for reconveyance has already prescribed.[27]

Two separate motions for reconsideration were filed on behalf of the petitioners, one filed by Atty. Flores and another filed by Atty. Peneyra and Atty. Edgardo Palay. The two motions were denied by the CA in its Resolution dated February 11, 2014, for failure to raise any new or substantial ground or reason calling for the reversal of the court's findings.[28]

On March 5, 2014, petitioners, through Atty. Flores, filed a Verified Petition for Review on *Certiorari* under Rule 45[29] before this Court which was docketed as G.R. No. 211309. The petition included a verification and certification of non-forum shopping executed by Dagot, Jr. Alangadi, and Dalojo. Ebuenga who passed away on April 26, 2010, is survived by her spouse Danilo Ebuenga and her siblings, whose whereabouts are unknown. In a Resolution[30] dated March 26, 2014, the Court resolved to require respondents to file a Comment thereon, not a Motion to Dismiss, within 10 days from notice. Respondents filed a Comment dated June 2, 2014.[31]

Meanwhile, on March 12, 2014, Atty. Peneyra also filed a Motion for Extension to file a Petition for Review on *Certiorari*[32] on behalf of the petitioners, docketed as G.R. No. 211957. The Petition was eventually filed on April 11, 2014, within the reglementary period, but notably without proof of service to the adverse party and without explanation why service was not done personally. Hence, the Court, in the Resolution[33] dated June 11, 2014, resolved to consolidate G.R. No. 211309 with G.R. No. 211957, among others, and required:

> 1. Respondent to file COMMENT thereon, not a motion to dismiss, within ten days from notice; and
> 2. Petitioners to FULLY COMPLY with the Rules by submitting within five (5) days from notice (a) a proof of personal service on the counsel for private respondents in accordance with Section 5 (d), Rule 56 in relation to Section 13, Rule 13 of the 1997 Rules of Civil Procedure, as amended, (b) a proper verification and valid certification of non-forum shopping in accordance with Section 1, Rule 45 in relation to Sections 4 and 5, Rule 7 of the Rules, since the attached verification and certification was signed by Marcial Dagot, Jr. without proof of authority to sign for co-petitioners, and (c) written explanation required under Section 11, Rule 13 in relation to Section 3, Rule 45 and Section(d), Rule 56 of the Rules.[34]

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[27] *Rollo* (G.R. No. 211957), pp. 46–49.
[28] *Id.* at 53–54.
[29] *Rollo* (G.R. No. 211309), pp. 3–16.
[30] *Id.* at 186.
[31] *Id.* at 194–212.
[32] *Rollo* (G.R. No. 211957), pp. 3–6.
[33] *Id.* at 165–166.
[34] Id. at 165.

In the Resolution[35] dated July 18, 2014, the Court noted the following: (1) petitioners' manifestation and submission dated March 19, 2014, submitting a verified declaration relative to the soft copies of the petition and its annexes as well as the compact disk in G.R. No. 211309 and (2) respondents' Comment dated June 2, 2014 on the petition for review on *certiorari* in G.R. No. 211309 in compliance with the Resolution dated March 26, 2014.

The petitioners, through Atty. Flores, filed a Manifestation with Motion for Leave to Reply[36] dated September 22, 2014. Attached to the Manifestation were the affidavit of petitioner Dagot, Jr. and the Reply[37] to respondents' Comment dated June 2, 2014.

In Dagot, Jr.'s Affidavit[38] dated August 8, 2014, he stated that he found out on August 5, 2014 that his former counsel, Atty. Peneyra, filed the petition in G.R. No. 211957 on their behalf. However, Dagot, Jr. claimed that as early as May 2012, they had already informed Atty. Peneyra and Atty. Palay of their desire to dispense with their services as evidenced by the attached copies of the petitioners' letters to Atty. Peneyra and Atty. Palay, both sent *via* registered mail on May 4, 2012. Dagot, Jr. further declared that the filing of the petition in G.R. No. 211957 was without their authority, and the signature over the printed name "Marcial Dagot, Jr." in the Verification/Certification page of G.R. No. 211957 is not his; and he did not appear before Atty. Palay on April 11, 2014 for notarization of the Verification and Certification page.[39]

Through a Manifestation[40] dated August 18, 2014, the counsel for the respondents claimed that they received only the petition for review dated February 27, 2014 filed by Atty. Flores, and that the petition for review dated April 8, 2014 filed by Atty. Peneyra lacked a verification and certification of non-forum shopping. Thus, the petition filed by Atty. Peneyra was patently defective since there was no verification and certification against non-forum shopping and for having been filed out of time. Nonetheless, respondents filed a Comment on the petition filed by Atty. Flores.

This Court, in a Resolution[41] dated January 28, 2015, noted and granted the petitioners' Manifestation with Motion For Leave to File a Reply to the Comment on the Petition for Review on *Certiorari* in G.R. No. 211309. The Court also noted petitioners' Reply[42] and respondents' Manifestation[43] dated August 18, 2014. The Court resolved to await the compliance of petitioners in

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[35] *Id.* at 168.
[36] *Id.* at 170–173.
[37] Id. at 177–194.
[38] *Rollo* (G.R. No. 211309), pp. 240–242; *Rollo* (G.R. No. 211957), pp. 174–176.
[39] *Rollo* (G.R. No. 211957), pp. 174–176.
[40] *Id.* at 198–200.
[41] *Id.* at 202–203.
[42] *Id.* at 177–194.
[43] *Id.* at 198–200.

G.R. No. 211957 with the Resolution dated June 11, 2014 requiring them to submit: (a) a proof of personal service of the petition on the counsel for respondents; (b) a proper verification of petition and certification on non-forum shopping; and (c) a written explanation why service was not done personally. Notably, there was no indication that both Resolutions dated June 11, 2014 and January 28, 2015, respectively, were sent to Atty. Peneyra and Atty. Palay. However, the Court has repeatedly referred to these resolutions and reiterated such orders in succeeding issuances.

In a Resolution[44] dated September 9, 2015, the Court required Atty. Peneyra and Atty. Palay to comment on the affidavit of Dagot, Jr. In another Resolution[45] dated June 15, 2016, Atty. Peneyra was also required to (a) show cause why he should not be disciplinarily dealt with for failure to file the required documents as mentioned in the Court's Resolution dated June 11, 2014 and (b) to comply with the June 11, 2014 Resolution within 10 days from notice.

Dagot, Jr., through Atty. Flores, filed a *Sinumpaang Salaysay*[46] dated August 26, 2015 wherein he reiterated his statements in his August 8, 2014 Affidavit and also prayed that: (a) Atty. Peneyra and Atty. Palay be required to show cause why they should not be disciplined; (b) G.R. No. 211957 be expunged from the docket; (c) Atty. Peneyra and Atty. Palay be cited in contempt of court; (d) Atty. Peneyra and Atty. Palay be declared guilty of unprofessional conduct; and (e) corresponding administrative penalties be imposed. The *Sinumpaang Salaysay* was attached to the petitioners' Manifestation with Omnibus Motion[47] dated September 21, 2015. The Court noted the foregoing Manifestation with *Omnibus* Motion filed by the respondents and also required Atty. Peneyra and Atty. Palay to show cause why they should not be disciplinarily dealt with or held in contempt.[48]

Atty. Palay filed a Manifestation[49] dated December 19, 2016 stating that he is not the principal counsel of the petitioners and has no lawyer-client relationship with them. Worried that the pleadings will be denied on the ground that Atty. Peneyra lacked the Mandatory Continuing Legal Education compliance, Atty. Peneyra allegedly requested Atty. Palay to sign the pleadings with him. Atty. Peneyra, in a Comment[50] dated January 4, 2017, recounted the history of his professional relationship with the petitioners and the filing of the instant case. He claimed that he did not know that petitioners were consulting another lawyer in Pasig City; that his services were never terminated; that he was never asked to desist from appearing as their counsel; and that he also did not know of petitioners' intent to terminate his legal services. Atty. Peneyra

[44] *Id.* at 204.
[45] *Rollo* (G.R. No. 211309), p. 281–282.
[46] *Rollo* (G.R. No. 211957), pp. 224–225.
[47] *Id.* at 204.
[48] *Id.* at 227–228 [Resolution dated October 10, 2016 issued by the Third Division of the Supreme Court].
[49] *Id.* at 232–233.
[50] *Id.* at 236–240.

maintained that he prepared the petition for review on *certiorari* and discussed the same with Dagot, Jr. Thereafter, Atty. Peneyra instructed Dagot, Jr. to sign the verification and certification against non-forum shopping and then have it notarized by Atty. Palay.

In the Resolution[51] dated December 13, 2017, We resolved to impose upon Atty. Peneyra a fine of PHP 1,000.00 for non-compliance with the Show Cause Resolution dated June 15, 2016 and directed him to comply with the Resolution of June 11, 2014. Atty. Peneyra paid the fine on April 16, 2018, as evidenced by Official Receipt No. 0205399-SC-8EP.[52] He also filed a Manifestation/Explanation with Compliance[53] dated March 9, 2018, stating that he refused to furnish Atty. Flores a copy of the pleadings because he does not consider Atty. Flores a party in the instant case, and that he has never withdrawn and will never withdraw from the present case.

In a Resolution[54] dated June 18, 2018, We required Atty. Peneyra to fully comply with the Resolution dated June 11, 2014. Considering his failure to comply, the Court resolved in a Resolution[55] dated March 25, 2019 to require Atty. Peneyra to (a) show cause why he should not be disciplinarily dealt with or held in contempt for such failure and (b) comply with the June 11, 2014 Resolution by submitting the required compliance within 10 days from notice hereof. In a Resolution dated June 22, 2020, the Court once again resolved to impose upon Atty. Peneyra a fine of PHP 1,000.00 and to require said counsel to comply with the Resolution[56] dated June 11, 2014 within 10 days from notice.

In the September 14, 2022 Resolution,[57] this Court noted that the copy of the Resolution dated June 22, 2020 sent to Atty. Flores, counsel for petitioners, was returned to the Court unserved with postal notation "RTS no one to receive." The certification dated March 8, 2022 issued by the Fiscal Management and Budget Office of this Court also stated that there is no record of payment made by Atty. Peneyra in the amount of PHP 1,000.00 for court fine imposed in the June 22, 2020 Resolution. Thus, the Court resolved to (a) impose upon Atty. Peneyra the increased fine in the amount of PHP 5,000.00 payable to this Court within 10 days from notice, or suffer a penalty of imprisonment of five days if said fine is not paid within the said period; and (b) require Atty. Peneyra to comply with the Resolution dated June 11, 2014 within 10 days from notice hereof.

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[51] *Id.* at 244–245.
[52] *Id.* at 246–248.
[53] *Id.* at 249–251.
[54] *Id.* at 253–254.
[55] *Id.* at 258–259.
[56] *Id.* at 273–274.
[57] Resolution dated September 14, 2022, pp. 1–2.

Issue

Whether the Decision of the RTC dated May 19, 2009 in favor of the petitioners attained finality for failure of the respondents to file an appeal within the reglementary period.

Our Ruling

At the outset, We expunge from the record the petition filed by Atty. Peneyra.

The records show that petitioners have opted to dispense with the services of Atty. Peneyra. Petitioners, through several declarations attached to pleadings filed by Atty. Flores manifested that the filing of the petition in G.R. No. 211957 was without their authority; the signature over the printed name "Marcial Dagot, Jr." in the Verification/Certification page of G.R. No. 211957 is not his; and Dagot, Jr. did not appear before Atty. Palay on April 11, 2014 when Atty. Palay purportedly notarized said Verification and Certification page.[58] Petitioners also attached letters sent to Atty. Peneyra expressing their intent to engage a new counsel to handle their case.[59] In the *Sinumpaang Salaysay*[60] dated August 26, 2015, Dagot, Jr. also prayed that: (a) Atty. Peneyra and Atty. Palay be required to show cause why they should not be disciplined; (b) G.R. No. 211957 be expunged from the docket; (c) Atty. Peneyra and Atty. Palay be cited in contempt of court; (d) Atty. Peneyra and Atty. Palay be declared guilty of unprofessional conduct; and (e) corresponding administrative penalties be imposed. Petitioners reiterated the foregoing statements in their Manifestation with Omnibus Motion dated September 21, 2015.[61]

Although the parties may have intended to dispense with the services of Atty. Peneyra, there is no showing that they complied with the formal requirements laid out under Section 26, Rule 138 of the Rules of Court and established jurisprudence. Section 26, Rule 138 of the Rules of Court and prevailing jurisprudence provide that a valid substitution of counsel must comply with the following requirements: (1) the filing of a written application for substitution; (2) the client's written consent; (3) the consent of the substituted lawyer if such consent can be obtained; and, in case such written consent cannot be procured, (4) a proof of service of notice of such motion on the attorney to be substituted in the manner required by the Rules.[62]

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[58] *Rollo* (G.R. No. 211309), pp. 240–242; *Rollo* (G.R. No. 211957), pp. 174–176.
[59] *Rollo* (G.R. No. 211309), pp. 241–242;
[60] *Rollo* (G.R. No. 211957), pp. 224–225.
[61] *Rollo* (G.R. No. 211309), pp. 283–294.
[62] *Bernardo v. Court of Appeals*, 341 Phil. 413, 425–426 (1997) [Per J. Panganiban, Third Division].

A party may have two or more lawyers working in collaboration for the same party in the same case. However, a substitution should not be presumed from the mere filing of a notice of appearance of a new lawyer. Another attorney entering appearance for the same party does not raise the presumption that the authority of the first attorney has been withdrawn. We have held time and again that there is an absolute need to observe legal formalities before a counsel of record may be considered relieved of his/her responsibilities. The withdrawal (or dismissal) of counsel must be made in a formal petition filed in the case.[63]

In the present case, other than a notice of appearance as collaborating counsel filed by Atty. Flores and the written statements of petitioners, there is no showing that petitioners, Atty. Flores, or Atty. Peneyra fully complied with the legal formalities of substitution of the counsel of record. Hence, the representation of the first counsel of record is presumed to continue until a formal notice to the contrary is filed with the court.[64]

Nonetheless, We cannot give due course to the petition in G.R. No. 211957 because it is riddled with procedural infirmities The petition lacks proof of service to the adverse party and an explanation of why the service was not done personally. Finally, and more importantly, Dagot, Jr. denies that he executed the Verification and Certification against Forum Shopping attached thereto.[65] In contrast, the petition in G.R. No. 211309 was timely filed and the Verification and Certification of Non-Forum Shopping attached to the petition in G.R. No. 211309 was signed by all petitioners. Through the August 8, 2014 Affidavit and August 26, 2015 *Sinumpaang Salaysay* executed by Dagot, Jr., petitioners confirmed that Atty. Peneyra was not authorized by petitioners to file the petition in G.R. No. 211957.

In view of the foregoing, We expunge from the records the petition filed in G.R. No. 211957.

At this juncture, We deem it proper to consider the August 8, 2014 Affidavit of Dagot, Jr. and his *Sinumpaang Salaysay* dated August 26, 2015 as a formal complaint against Atty. Peneyra and Atty. Palay. Thus, the same is ordered re-docketed as a regular administrative charge.

The Court will now proceed to resolve the sole issue raised in the petition filed in G.R. No. 211309 which is to determine whether the trial court's Decision dated May 19, 2009 has attained finality after respondents failed to appeal within 15 days from receipt of the Order denying their Motion for Reconsideration.

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[63] *Elbiña v. Ceniza*, 530 Phil. 183, 187 (2006) [Per J. Corona, Second Division], *citing Land Bank of the Phils. v. Pamintuan Development Co.*, 510 Phil. 839, 844 (2005) [Per J. Ynares-Santiago, First Division].

[64] *Id.*

[65] *Rollo* (G.R. No. 211957), p. 33.

Petitioners stress that, according to the Rules of Court, respondents had 15 days from the receipt of the order denying their motion for reconsideration to file a notice of appeal or a verified petition for review on *certiorari*. The respondents, in their Urgent Manifestation, readily admit that their counsel personally received the Order dated October 15, 2009 denying their Motion for Reconsideration on November 4, 2009.[66] Hence, they had until November 19, 2009 to file the appropriate action pursuant to the Rules of Court. However, instead of filing a notice of appeal or a verified petition for review on *certiorari*, they filed the Urgent Manifestation which the trial court considered as a second Motion for Reconsideration. Petitioners contend that, since a second motion for reconsideration is expressly prohibited by Section 5, Rule 37 of the Rules of Court, the trial court should have disregarded the Urgent Manifestation and respondents should have filed the appropriate appeal or petition pursuant to the Rules of Court. Failing to do so, the Decision of the trial court dated May 19, 2009 had already reached finality and may no longer be modified.

Respondents counter that the issue of the finality of the May 19, 2009 Decision of the trial court cannot be raised in a petition for review for *certiorari* under Rule 45 because it is not among the issues raised in the Appellants' Brief filed by petitioners before the CA. Since the Order dated November 10, 2009 also stated that some of the exhibits marked for and offered by petitioners were not included in and attached to the records and petitioners even participated in the subsequent hearings, respondents insist that petitioners are deemed submitting the case anew for decision of the trial court.

Notably, Atty. Flores filed a Motion for Reconsideration of the October 11, 2013 Decision of the Court of Appeals raising this very issue. The appellate court denied the two Motions for Reconsideration filed by Atty. Flores and Attys. Peneyra and Palay, respectively.

Upon a careful review of the records, We agree with the petitioners.

Under Rule 45 of the Rules of Court, Our review is limited only to the errors of law committed by the appellate court.[67] As may be gleaned from the assailed Decision and Resolution of the CA, the appellate court erroneously neglected to consider the effects of respondents' filing of an Urgent Manifestation in an attempt to reverse the adverse decision of the trial court; the trial court considering such Urgent Manifestation as a second motion for reconsideration; and the trial court declaring the 15-day reglementary period for appeal tolled in view of the filing of the second motion for reconsideration. Since such acts necessarily affect the jurisdiction of the courts and the validity

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[66] RTC records, book II, p. 415.

[67] *Lopez v. Saludo, Jr.*, G.R. No. 233775, September 15, 2021 [Per J. Hernando, Second Division], *citing Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013) [Per J. Brion, Second Division].

of succeeding proceedings, We find that the appellate court's disregard of such matters is an error of law that falls under review of this Court.

Moreover, contrary to the position of respondents that petitioners did not raise the issue of the finality of the May 19, 2009 Decision of the trial court, records show that petitioners clearly stated in their Appellant's Brief that "notwithstanding the fact that [the Urgent Manifestation] is a prohibited second Motion for Reconsideration[,] the trial court, through presiding Judge Bienvenido C. Blancaflor, accepted the same and worst, surprisingly completely reversed himself by recalling his earlier Decision and the order denying the first Motion for Reconsideration." [68] This matter was clearly highlighted in the Appellant's Brief but was ignored by the appellate court.

Indeed, Section 5, Rule 37 of the Rules of Court provides that no party shall be allowed a second motion for reconsideration of a judgment or final order. Notwithstanding such express provision, the trial court, in the Order[69] dated November 10, 2009, considered the Urgent Manifestation as a second motion for reconsideration but still allowed the same, in the higher interest of justice, because the issues raised therein are "new and not raised before this case such as the concept of trust, among others."[70] In the same Order, the trial court noted that some exhibits marked for petitioners, which were offered and admitted by the court, were not included in and attached to the records. The trial court also tolled the 15-day period to file an appeal.

On the contrary, We note that respondents actually raised the matter of laches and prescription as early as their Answer with Counterclaim dated October 11, 1999.[71] The specific argument referring to Article 1456 of the Civil Code providing that a person who acquired a property through fraud or mistake is considered a trustee of an implied trust and that an action based on implied trust prescribes in 10 years, was already included in the Motion for Reconsideration filed by respondents dated May 31, 2009.[72] Hence, there appears to be no particularly novel issue raised in the Urgent Manifestation that would warrant an exception to the prohibition against succeeding motions for reconsideration. Even with regard to the evidence that were purportedly offered by the prosecution but not available in the records, the trial court should have required the parties to present any missing evidence before it rendered any decision at all. Finally, the trial court cannot decide on its own to toll the reglementary period of appeal, especially not based on a prohibited second motion for reconsideration.

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[68] CA *rollo*, pp. 28–29.
[69] RTC records, book II, p. 465.
[70] RTC records, book I), p. 465.
[71] *Id.* at 37.
[72] RTC records, book I, pp. 401–402.

The last paragraph of the Urgent Manifestation shows the true intent of respondents in filing the same:

> This Manifestation is made in the highest interest of justice and with the utmost belief that the Honorable Court as an adjudicator of law could pause to revisit until the last minute the case facts as undisputed, the stated jurisprudence as consistently held through the years and the vigor of the laws and Rules of Court as cited. *This with the defendants [sic] plea that in the deepest recesses of the Honorable Courts [sic] heart, the wisdom of the above arguments, jurisprudence and the facts as settled would be taken in favor of Defendants such that the remaining days prior to the expiration of the period to appeal or for the ruling to be final, the Honorable Court would proceed muto proprio [sic] with perhaps the appropriate amendment of the subject Order.* All in the interest of the rule of law.[73] (Emphasis supplied)

The filing of the Urgent Manifestation is clearly a last-ditch effort to persuade the RTC to reverse its decision, without due regard to prevailing rules of procedure. The Urgent Manifestation did not raise any new or substantial matter but was a mere attempt to reverse the decision after the denial of their motion for reconsideration.

With no persuasive reason to allow a second motion for reconsideration in this case, the Urgent Manifestation or second motion for reconsideration must be considered a prohibited pleading. As such, it cannot toll the running of the period to appeal since such pleading cannot be given any legal effect precisely because of its being prohibited.[74] Hence, if respondents intended to challenge the original decision of the trial court, they should have filed within the reglementary period an appeal. An appeal is not a matter of right, but is one of sound judicial discretion. It may only be availed of in the manner provided by the law and the rules. A party who fails to question an adverse decision by not filing the proper remedy within the period prescribed by law loses the right to do so as the decision, as to such party, becomes final and binding[75] by operation of law.

The principle of immutability of judgments provides that once a judgment has attained finality, it can never be altered, amended, or modified, even if the alteration, amendment or modification is to correct an erroneous judgment. This rule admits the following exceptions (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.[76] None of the

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[73] RTC records, book II, p. 462–463.

[74] *Land Bank of the Philippines v. Ascot Holdings and Equities, Inc.*, 562 Phil. 974, 983 (2007) [Per J. Garcia, First Division].

[75] *Heirs of Albano v. Spouses Ravanes*, 790 Phil. 557, 574 (2016) [Per J. Jardeleza, Third Division].

[76] *Republic v. Heirs of Gotengco*, 824 Phil. 568, 578 (2018) [Per J. Gesmundo, Third Division].

exceptions apply in the instant case. Thus, We can no longer alter, amend, reverse, or modify the May 19, 2009 Decision of the trial court which is still valid, final, and executory.

On the merits, We note that, petitioners and heirs of Dagot, Sr. agreed to partition and adjudicate among themselves the subject property in the Extra-Judicial Settlement of the Estate of Marcial Dagot, Sr. dated November 19, 1960 in the following manner:[77]

To	Share
Maxima Oblan (Wife)	One-Half (1/2) of the whole portion
Teresita Dagot (Daughter)	One-Eighth (1/8) of the whole portion
Nelly Dagot (Daughter)	One-Eighth (1/8) of the whole portion
Marcial Dagot, Jr. (Son)	One-Eighth (1/8) of the whole portion
Evangeline Dagot (Daughter)	One-Eighth (1/8) of the whole portion

Petitioners also agreed to sell to the vendee, Ebro, the "remaining area consisting of 11 hectares, more or less, and described as follows:

> On the NORTH, by the property of Pedro Cancayda
> On the EAST, by National Road and Ricardo Dalojo
> On the SOUTH, by Neciforo Garcellano, Teodulo Mingua, Ricardo Dalojo, and Tomas Lacandazo
> On the WEST, by Public Land."[78]

There is no clear technical description of the exact portion of the subject property sold to Ebro in the Extrajudicial Settlement of the Estate of Marcial Dagot, Sr. The parties therein merely relied on the surrounding properties of other persons and the location of public land to identify the area subject of the sale. Ebro, as the buyer of the subject property, thus necessarily needed to identify the exact technical description of the area sold to her.

Petitioners argue that they sold to Ebro an undivided portion of 11 hectares, as evidenced by Entry No. 2137 annotation at the back of the reconstituted copy of OCT No. G-558. Petitioners also claim that the remaining portion of the 6.0229 hectares of the estate was extrajudicially settled by the heirs although no actual subdivision survey was conducted to separate by metes and bounds the boundaries of the subject property. Thus, they insist that a legal co-ownership was established between the petitioners and Ebro.[79]

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[77] RTC records, book I, p. 11.
[78] RTC records, book I), p. 12; RTC records, book II), p. 489a.
[79] RTC records, book I), p. 3.

Prior to the execution of the Extrajudicial Settlement of the Estate of Marcial Dagot, Sr. on November 19, 1960, Oblan sold four hectares of the subject property to different persons and the sale were annotated on the back of OCT No. G-558.[80] Consequently, at the time of execution of the extrajudicial settlement, petitioners can only apportion among themselves 13 hectares of the subject property. Having already sold four hectares to several persons prior to the extrajudicial settlement and 11 hectares, more or less, of the subject property to Ebro in the same instrument, petitioners are entitled to only the two hectares of the land inherited from Dagot, Sr. This conclusion was also supported by the testimonies of the then Registrar of Deeds of Puerto Princesa City, Atty. Luciano Roxas, and petitioner Dalojo.[81]

Petitioners clearly intended to sell only a portion of the subject property to Ebro and divide the remaining property among themselves. Otherwise, there would have been no need for petitioners to indicate the partition of the subject property among the heirs; they would have stated in the extrajudicial settlement that the entirety of the subject property would be sold to Ebro, and OCT No. G-558 would have been totally cancelled.

Despite the foregoing facts supporting the conclusion that the inclusion of the two hectares of the subject property in the title of Ebro was a mistake, petitioners only filed a complaint against respondents on September 22, 1999 or 37 years after TCT No. T-1220 was issued in Ebro's name on July 18, 1962. Petitioner Dalojo testified that she was not aware of the subdivision survey conducted by Ebro because she lived a kilometer away from the subject property.[82] It was only in 1973 when Dalojo learned that a new title was issued to Ebro and that such title covered 13 hectares.[83] Dalojo also asserts that she discussed this matter with Ebro and the late Fiscal Francisco Ponce de Leon but, other than this testimony and a letter allegedly written by Ebro referencing the matter, there is no other evidence to support petitioners' claims that Ebro promised to return the excess two hectares transferred to her in the new title. Dalojo further stated in her testimony that, despite learning of the existence of Ebro's title and any anomalies thereto as early as 1973, petitioners did not file any action and waited for Ebro to act on the matter[84] until she died and they eventually filed a complaint in 1999.

Regardless of any merit of the arguments in support of the claim that the action for reconveyance of the subject property had already prescribed, We uphold the doctrine of the immutability of judgments and emphasize that We can no longer reverse or modify the May 19, 2009 Decision of the trial court as it had already reached finality upon failure of respondents to file the

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80 RTC records, book II), p. 490a.

81 TSN, Register of Deeds of Puerto Princesa City, August 24, 2000, pp. 24–26; TSN, Teresita Dalojo, November 31, 2003, pp. 5–6.

82 TSN, Teresita Dalojo, June 26, 2003, pp. 13–14.

83 *Id.* at 16–17.

84 TSN, Teresita Dalojo, November 13, 2003, pp. 10–12.

appropriate action within the reglementary period as prescribed by our prevailing procedural rules.

If we allow orders and decisions borne out of prohibited superfluous motions and pleadings, there will be no end to litigation. Litigants may be tempted to file similar manifestations with the hope that it would be considered as a second motion for reconsideration thereby circumventing the procedure laid down in the Rules of Court.

As We held in *Cortal v. Inaki A. Larrazabal Enterprises*[85] citing *Spouses Bergonia v. Court of Appeals*,[86] courts and litigants alike are enjoined to follow procedural rules except only for the most persuasive reasons:

> Alluding to the 'interest of substantial justice' should not automatically compel the suspension of procedural rules. While they may have occasionally been suspended, it remains basic policy that the Rules of Court are to be faithfully observed. . . The bare invocation of 'the interest of substantial justice' is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of [their] thoughtlessness in not complying with the procedure prescribed.[87] (Citations omitted)

Litigants and their counsels are warned to not employ schemes that are contrary to our prevailing laws and procedures lest they be constrained to suffer the adverse consequences thereof. Courts are also reminded to be circumpsect and mindful of the effects of issuing any orders in the "interest of substantial or higher justice" so as to not further delay the speedy and efficient administration of justice.

ACCORDINGLY, the Petition for Review on *Certiorari* in **G.R. No. 211957** is ordered **EXPUNGED** from the records. The instant Petition for Review on *Certiorari* in **G.R. No. 211309** is **GRANTED**. The Decision dated October 11, 2013 and the Resolution dated February 11, 2014 of the Court of Appeals in CA-G.R. CV No. 95232 are **SET ASIDE and VACATED** in accordance with this Decision. The Decision dated May 19, 2009 of the Regional Trial Court of Puerto Princesa City, Palawan, Branch 95 is **REINSTATED.**

The August 8, 2014 Affidavit of Marcial O. Dagot, Jr. and his *Sinumpaang Salaysay* dated August 26, 2015 are **REDOCKETED** as a regular administrative complaint against Atty. Robert Y. Peneyra.

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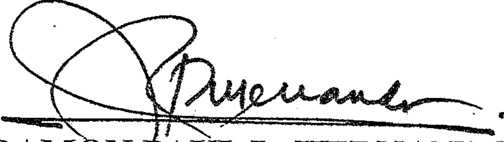
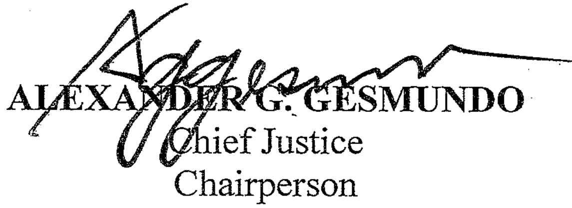
[85] *Cortal v. Inaki A. Larrazabal Enterprises,* 817 Phil. 464, 470 (2017) [Per J. Leonen, Third Division].
[86] *Spouses Bergonia v. Court of Appeals,*680 Phil. 334, 343 (2012) [Per J. Reyes, Second Division].
[87] *Cortal v. Inaki A. Larrazabal Enterprises,* 817 Phil. 464, 477-478 (2017) [Per J. Leonen, Third Division].

SO ORDERED.

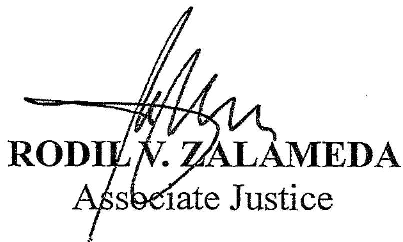


RAMON PAUL L. HERNANDO
Associate Justice
Working Chairperson

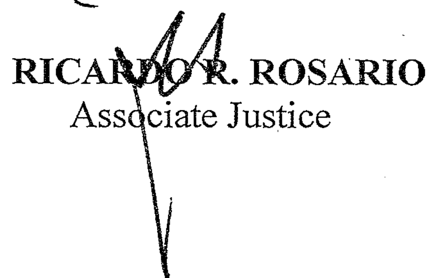
WE CONCUR:



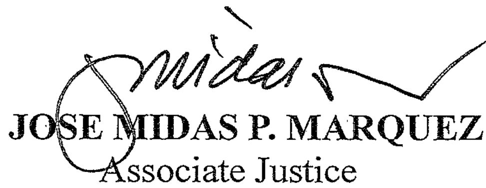
ALEXANDER G. GESMUNDO
Chief Justice
Chairperson



RODIL V. ZALAMEDA
Associate Justice



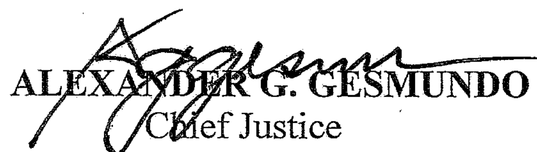
RICARDO R. ROSARIO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice