

SECOND DIVISION

[G.R. No. 168692, December 13, 2010]

FRANCISCO TAYCO, SUBSTITUTED BY LUCRESIA TAYCO AND NOEL TAYCO, PETITIONERS, VS. HEIRS OF CONCEPCION TAYCO-FLORES, NAMELY: LUCELI F. DIAZ, RONELE F. BESA, MONELE FLORES, PERLA FLORES, RUPERTO FLORES, WENCESLAO FLORES, PURISIMA FLORES, AND FELIPE FLORES, RESPONDENTS.

DECISION

PERALTA, J.:

For this Court's consideration is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court seeking the reversal of the Court of Appeals' Decision^[2] dated November 17, 2004 and the reinstatement of the Regional Trial Court's Decision^[3] dated October 2, 2001.

The records contain the following facts:

Upon the death of the spouses Fortunato Tayco and Diega Regalado, their children, petitioner Francisco Tayco, Concepcion Tayco-Flores and Consolacion Tayco inherited the following parcels of land:

1. A parcel of land (Lot 1902pt.), situated at Buswang New, Kalibo, Aklan with the area of 9,938 square meters, bounded on the NE by Lots 1848 & 1905; on the SE by Lots 1903 & 1904; on the NW by Lots 1895, 1887, 1890 and 1808, covered by OCT No. (24360) RO-1569 under ARP/TD No. 01025 in the name of Diega Regalado with assessed value of P15,210.00;
2. A parcel of land (Lot 1896), situated at Buswang New, Kalibo, Aklan, with the area of 2,123 square meters, bounded on the NE by Lot 1898-C; on the SE by Lot 1897; on the SW by New Provincial Road; and on the NW by Lot 1893, covered by OCT No. (24101) RO-1570, under ARP/TD No. 01087 & 01088 in the name of Diega Regalado with assessed value of P6,910.00; and
3. A parcel of land (Lot 2960), situated at Andagao, Kalibo, Aklan, with the area of 4,012 square meters, bounded on the NE by Lot 2957-J; on the SE by Lot 2961-H; on the SW by Lot 2660; and on the NW by Lot 2656, covered by OCT No. (23813) RO-1563, under ARP/TD No. 01782 in the name of Diega Regalado with assessed value of P4,820.00.^[4]

Sometime in September of 1972, petitioner Francisco Tayco and his sister

Consolacion Tayco executed a document called Deed of Extrajudicial Settlement of the Estate of the Deceased Diega Regalado with Confirmation of Sale of Shares,^[5] transferring their shares on the abovementioned properties to their sister Concepcion Tayco-Flores. The said document was notarized and, on March 16, 1991, Concepcion Tayco-Flores and Consolacion Tayco executed the Confirmation of Quitclaim of Shares in Three (3) Parcels of Land.^[6]

Consolacion Tayco died on December 25, 1996 and Concepcion Tayco-Flores died on January 14, 1997. Thereafter, petitioner Francisco Tayco filed a case for nullity of documents and partition with damages with the RTC of Kalibo, Aklan claiming that the Deed of Extrajudicial Settlement of the Estate of the Deceased Diega Regalado with Confirmation of Sale of Shares and the Confirmation of Quitclaim of Shares in three (3) Parcels of Land are null and void; thus, he is still entitled to his original shares in the parcels of land. According to him, the Deed of Extrajudicial Settlement was executed at that time, because Concepcion Tayco-Flores was in need of money and wanted the properties to be mortgaged in a bank. He claimed that the mortgage did not push through and that he requested his sister to cancel the said Deed, to which the latter ensured that the same document had no effect. However, he further claimed that without his knowledge and consent, her sisters Concepcion and Consolacion executed another document entitled Confirmation of Quitclaim of Shares in three (3) Parcels of Land in order to have the tax declarations and certificates of title covering those three parcels of land transferred in the name of Concepcion. He also alleged that he came to know of the said facts only when he had the property surveyed for the purpose of partition and some of the heirs of Concepcion objected to the said survey.

The RTC ruled in favor of petitioner Francisco Tayco, the dispositive portion of the decision reads:

WHEREFORE, the Court finds that the preponderance of evidence tilts in favor of the plaintiff and judgment is hereby rendered:

- a) Declaring the document entitled, Extrajudicial Settlement of the Estate of the Deceased Diega Regalado with Confirmation of Sale of Shares (Annex A, Complaint), and the document entitled Confirmation of Quitclaim of Shares in Three (3) Parcels of Land (Annex B, Complaint), as null and void;
- b) Declaring the three (3) parcels of land subject of the above documents to be co-owned by the plaintiff ($\frac{1}{2}$ share) and defendants ($\frac{1}{2}$ share);
- c) Ordering the parties to submit to the court a Project of Partition indicating the specific portion allotted to them within 30 days from receipt of this decision; in case of disagreement, the Court shall order the sale of all the three (3) parcels with the proceeds to be divided equally between plaintiff on the one hand and the defendants on the other;
- d) Ordering the defendants to pay the plaintiff the sum of P10,000.00 representing litigation expenses, and P5,000.00 as attorney's fees, plus cost.

e) The claim for moral and exemplary damages are hereby denied.

SO ORDERED.^[7]

In ruling that the assailed documents were null and void, the RTC ratiocinated that the extrajudicial settlement is a simulated document to make it appear that Concepcion Tayco-Flores was the owner of the properties, so that it would be easy for her to use the same as a collateral for a prospective loan and as evidence disclosed that the intended loan with any financial institution did not materialize, hence, the document had no more effect. Consequently, according to the trial court, since the first document was simulated and had no force and effect, the second document had no more purpose and basis.

The respondent-heirs appealed the decision of the RTC to the Court of Appeals, and on November 17, 2004, the latter reversed the former's ruling, disposing it in the following manner:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us REVERSING the assailed decision of the lower court and a new one entered declaring defendants-appellants absolute owners of Lot Nos. 1902, 1896 and 2620. The complaint of plaintiff-appellee is dismissed.

SO ORDERED.^[8]

In reversing the trial court's findings, the CA reasoned out that the genuineness and due execution of the Extrajudicial Settlement was not disputed and was duly signed by the parties and notarized. It added that the recital of the provisions of the said document is clear that it is an extrajudicial settlement of the estate of deceased Diega Regalado and that petitioner and his sister Consolacion confirmed the sale of their shares to Concepcion.

Petitioner filed a Motion for Reconsideration,^[9] but was denied^[10] by the same court. Thus, the present petition.

The petitioner raised this lone issue:

CAN THE DEED OF EXTRAJUDICIAL SETTLEMENT OF THE ESTATE OF THE DECEASED DIEGA REGALADO WITH CONFIRMATION OF SALE OF SHARES DIVEST CO-HEIR AND CO-OWNER FRANCISCO TAYCO OF HIS SHARES IN THE THREE (3) PARCELS OF LAND IN QUESTION?^[11]

Under question is the validity of the document that contains the extrajudicial settlement of the estate of the deceased, Diega Regalado. The trial court ruled that it is null and void based on its assessment of the facts, while the CA adjudged it valid based on its examination of the said document. Under Section 1, Rule 45, providing for appeals by *certiorari* before the Supreme Court, it is clearly enunciated

that only questions of law may be set forth.^[12] Questions of fact may not be raised unless the case falls under any of the following exceptions:^[13]

(1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) **when the findings are contrary to those of the trial court**; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.

This case clearly falls under one of the exceptions and after a careful review of the facts of the case, this Court finds the petition meritorious.

Section 1, Rule 74 of the Rules of Court provides:

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 for partition. x x x.

The fact of the extrajudicial settlement or administration shall be **published in a newspaper of general circulation** in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.

x x x x

Notarization of the deed of extrajudicial settlement has the effect of making it a public document^[14] that can bind third parties. However, this formal requirement appears to be superseded by the substantive provision of the Civil Code that states:

ART. 1082. Every act which is intended to put an end to indivision among co-heirs and legatees or devisees is deemed to be a partition, although it should purport to be a sale, an exchange, a compromise, or any other transaction.