

## SECOND DIVISION

[ G.R. NO. 160711, August 14, 2007 ]

**HEIRS OF MAXIMO LABANON, REPRESENTED BY ALICIA LABANON CAÑEDO AND THE PROVINCIAL PETITIONERS, VS. HEIRS OF CONSTANCIO PROMULGATED: LABA REPRESENTED BY ALBERTO MAKILANG, RESPONDENTS.**

### D E C I S I O N

**VELASCO, JR., J.:**

#### **The Case**

This Petition for Review on Certiorari under Rule 45 seeks the recall and nullification of the May 8, 2003 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 65617 entitled *Heirs of Constancio Labanon represented by Alberto Makilang v. Heirs of Maximo Labanon represented by Alicia Labanon Cañedo and the Provincial Assessor of Cotabato*, which reversed the August 18, 1999 Decision<sup>[2]</sup> of the Kidapawan City, Cotabato Regional Trial Court (RTC), Branch 17, in Civil Case No. 865. Likewise assailed is the October 13, 2003 Resolution<sup>[3]</sup> which disregarded petitioners' Motion for Reconsideration.

#### **The Facts**

The CA culled the facts this way:

During the lifetime of Constancio Labanon, prior to the outbreak of WWII, he settled upon a piece of alienable and disposable public agricultural land situated at Brgy. Lanao, Kidapawan, Cotabato x x x. Constancio cultivated the said lot and introduced permanent improvements that still exist up to the present. Being of very limited educational attainment, he found it difficult to file his public land application over said lot. Constancio then asked his brother, Maximo Labanon who was better educated to file the corresponding public land application under the express agreement that they will divide the said lot as soon as it would be feasible for them to do so. The offer was accepted by Maximo. During the time of the application it was Constancio who continued to cultivate the said lot in order to comply with the cultivation requirement set forth under Commonwealth Act 141, as amended, on Homestead applications. After which, on June 6, 1941, due to industry of Constancio, Homestead Application No. 244742 (E-128802) of his brother Maximo was approved with Homestead Patent No. 67512. Eventually, Original Certificate of Title No. P-14320 was issued by the Register of Deeds of Cotabato over said lot in favor of Maximo Labanon.

On February 11, 1955, Maximo Labanon executed a document

denominated as "Assignment of Rights and Ownership" and docketed as Doc. No. 20; Page No. 49; Book No. V; Series of 1955 of the Notarial Register of Atty. Florentino Kintanar. The document was executed to safeguard the ownership and interest of his brother Constancio Labanon. Pertinent portion of which is reproduced as follows:

"That I, MAXIMO LABANON, of legal age, married to Anastacia Sagarino, and a resident of Kidapawan, Cotabato, for and in consideration of the expenses incurred by my elder brother CONSTANCIO LABANON also of legal age, Filipino, widower and a resident of Kidapawan, Cotabato, for the clearing, cultivation and improvements on the eastern portion xxx Lot No. 1, Blk. 22, Pls-59 xxx which expenses have been incurred by my said brother xxx before the outbreak of the last world war xxx I do hereby assign transfer and convey my rights to, interests in and ownership on the said eastern portion of said Lot No. 1, Block 22, Pls-59 ONE HUNDRED (100 M) ALONG THE NATIONAL HIGHWAY, (DAVAO-COTABATO ROAD) by TWO HUNDRED FIFTY METERS (250 M) going inside the land to cover an area of TWO AND ONE HALF HECTARES (25,000 SQ. M.), more or less, adjoining the school site of barrio Lanao, Kidapawan, Cotabato, to the said CONSTANCIO LABANON, his heirs and assigns, can freely occupy for his own use and benefit xxx.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February 1995 at Kidapawan, Cotabato.

(SGD) MAXIMO LABANON

With my marital consent.

(SGD) ANASTACIA SAGARINO  
(Wife)" (*p.16, rollo*)

On April 25, 1962, Maximo Labanon executed a sworn statement reiterating his desire that his elder brother Constancio, his heirs and assigns shall own the eastern portion of the Lot, pertinent portion of which reads:

"That I am the same and identical person who is a homestead applicant (HA-224742, E-128802) of a tract of land which is covered by Homestead Patent No. 67512 dated June 6, 1941, known as Lot No. 1, Block 22, Pls-59, situated in [B]arroio Lanao, Municipality of Kidapawan, Province of Cotabato, Philippines, and containing an area of 5.0000 hectares, more or less;

That I am the same and identical person who executed a deed of ASSIGNMENT OF RIGHTS AND OWNERSHIP in favor of my brother Constancio Labanon, now deceased, now for his heirs, for the eastern half portion of the land above described, and which deed was duly notarized by notary public Florentino P. Kintanar on February 11, 1955 at Kidapawan, Cotabato and entered in his Notarial Register as Doc. No. 20, Page No. 49, Book No. V, Series of 1955; and

That in order that I and the Heirs of Constancio Labanon will exercise our respective rights and ownership over the aforementioned lot, and to give force and effect to said deed of assignment, I hereby, by these presents, request the Honorable Director of Lands and the Land Title Commission to issue a separate title in my favor covering the western half portion of the aforementioned lot and to the Heirs of Constancio Labanon a title for the eastern half portion thereof.

IN WITNESS THEREOF, I have hereunto set my hand this 25th day of April, 1962, at Pikit, Cotabato, Philippines." (p. 9, records)

After the death of Constancio Labanon, his heirs executed an [e]xtra-judicial settlement of estate with simultaneous sale over the aforesaid eastern portion of the lot in favor of Alberto Makilang, the husband of Visitacion Labanon, one of the children of Constancio. Subsequently, the parcel of land was declared for taxation purposes in the name of Alberto under TD No. 11593. However, in March 1991, the defendants heirs of Maximo Labanon namely, Alicia L. Caniedo, Leopoldo Labanon, Roberto Nieto and Pancho Labanon, caused to be cancelled from the records of the defendant Provincial Assessor of Cotabato the aforesaid TD No. 11593 and the latter, without first verifying the legality of the basis for said cancellation, did cancel the same. x x x Further, after discovering that the defendant-heirs of Maximo Labanon were taking steps to deprive the heirs of Constancio Labanon of their ownership over the eastern portion of said lot, the latter, thru Alberto Makilang, demanded the owner's copy of the certificate of title covering the aforesaid Lot to be surrendered to the Register of Deeds of Cotabato so that the ownership of the heirs of Constancio may be fully effected but the defendants refused and still continue to refuse to honor the trust agreement entered into by the deceased brothers. x x x<sup>[4]</sup>

Thus, on November 12, 1991, petitioners filed a complaint<sup>[5]</sup> for Specific Performance, Recovery of Ownership, Attorney's Fees and Damages with Writ of Preliminary Injunction and Prayer for Temporary Restraining Order against respondents docketed as Civil Case No. 865 before the Kidapawan City RTC. After hearing, the trial court rendered its August 18, 1999 Decision, the decretal portion of which reads:

Wherefore, prescinding from the foregoing facts and considerations the Court finds and so holds that the [defendant-heirs] of Maximo Labanon represented by Alicia Labanon Caniedo have proved by preponderance of evidence that they are entitled to the reliefs set forth in their answer and consequently judgment is hereby rendered as follows:

1. Ordering the dismissal of the complaint against the Heirs of Maximo Labanon represented by Alicia Labanon Caniedo for lack of merit;
2. Ordering the dismissal of the case against the Provincial Assessor. The claim of the plaintiff is untenable, because the duties of the Provincial Assessor are ministerial. Moreover, the presumption of regularity in the performance of his duty is in his favor;

3. Ordering the plaintiff to pay the defendants the amount of P20,000.00 as exemplary damages, P10,000.00 for Attorney's Fees, P500.00 per appearance in Court; and
4. To pay the costs of this suit.

**IT IS SO ORDERED.**<sup>[6]</sup>

Aggrieved, respondents elevated the adverse judgment to the CA which issued the assailed May 8, 2003 Decision in CA-G.R. CV No. 65617, the *fallo* of which states:

**WHEREFORE**, the appeal is hereby **GRANTED** for being meritorious. The assailed decision of the Regional Trial Court is hereby **REVERSED** and **SET ASIDE** and a new one is hereby entered as follows:

1. Recognizing the lawful possession of the plaintiffs-appellants over the eastern portion of the property in dispute;
2. Declaring the plaintiffs-appellants as owners of the eastern portion of the property by reason of lawful possession;
3. Ordering the Provincial Assessor to reinstate TD No. 11593 and declaring TD No. 243-A null and void;
4. Ordering the defendants-appellees to pay the plaintiffs-appellants the amount of P20,000 as moral damages, P10,000 for attorney's fees, P500.00 per appearance in Court and
5. To pay the costs of the suit.

**SO ORDERED.**

### **The Issues**

Surprised by the turn of events, petitioners brought this petition before us raising the following issues, to wit:

1. Whether or not Original Certificate of Title No. 41320 issued on April 10, 1975 in the name of MAXIMO LABANON be now considered indefeasible and conclusive; and
2. Whether or not the Trust Agreement allegedly made by Constancio Labanon and Maximo Labanon prescribed.<sup>[7]</sup>

### **The Court's Ruling**

The petition must fail.

### **First Issue**

**Respondents are not precluded from challenging the validity of Original Certificate of Title No. P-41320**