

SECOND DIVISION

[G.R. No. 148727, April 09, 2003]

**HERMOGENA G. ENGRESO WITH SPOUSE JOSE ENGRESO,
PETITIONER, VS. NESTORIA DE LA CRUZ AND HERMINIO DE LA
CRUZ, RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

This is a petition for review on certiorari to set aside the Decision of the Court of Appeals^[1] affirming the Decision of the court *a quo*^[2] which declared private respondent Nestoria de la Cruz the lawful owner of one-half (½) of Lot No. 10561 and of the residential / commercial building standing thereon.

Sometime in 1993 private respondent Nestoria de la Cruz instituted an action for declaration of ownership, possession and damages against petitioner spouses Hermogena and Jose Engreso.^[3] In her complaint, Nestoria alleged that in 1979 she purchased from her sister Hermogena one-half (½) of an unregistered property located in Zamboanguita, Negros Oriental, designated as Lot No. 10561, containing an area of 112.5 square meters, more or less, as specified and delineated in the deed of sale.

Nestoria further averred that their deceased father Romeo Gajelloma had constructed a residential/commercial building on their adjoining properties such that a part of the structure stood on her property and the remaining half on Hermogena's land. During his lifetime, Romeo lived in the building and leased a portion thereof to third parties. After Romeo's death petitioner spouses deprived her of her rights over the purchased property as well as the building thereon. Private respondent Nestoria also complained that her sister Hermogena mortgaged Lot No. 10561 with all its improvements in favor of the Rural Bank of Zamboanguita, Negros Oriental, without her knowledge and consent. In support of her complaint Nestoria presented in evidence a notarized Deed of Sale dated 20 January 1979 attesting to the fact that in consideration of P3,000.00 Hermogena sold to her an identified portion of the disputed property. Private respondent prayed that she be declared owner of one-half (½) portion of Lot No. 10561 as well as the building thereon, and that petitioner spouses be ordered to render an accounting of the rentals derived from the lease of the property.

Petitioner spouses moved to dismiss the complaint arguing that private respondent failed to allege whether earnest efforts towards a compromise had been made.

In its *Order* dated 20 May 1993 the trial court denied the motion; instead, it ordered Nestoria to amend her complaint to indicate whether efforts towards a compromise had been undertaken.^[4] Forthwith, private respondent filed an amended complaint stating that petitioner spouses had rebuffed all attempts towards an amicable

resolution of their dispute.

In due time, the trial court rendered its decision declaring private respondent Nestoria de la Cruz owner of a portion of the disputed parcel of land, which was designated as Lot No. 10561-A, as well as one-half ($\frac{1}{2}$) of the residential/commercial building standing thereon. The trial court ordered petitioner Hermogena Engreso to deliver to private respondent possession of Lot No. 10561-A and one-half ($\frac{1}{2}$) of the building thereon as well as one-half ($\frac{1}{2}$) of the rentals derived from the lease of the property beginning February 1993. In support of its decision the trial court ratiocinated that a recital in a public document celebrated with all the legal formalities under the safeguard of a notarial certificate constituted evidence against the parties and a high degree of proof would be necessary to overcome the legal presumption that such recital was true. The trial court ruled that the biased and interested testimony of petitioner Hermogena could not overcome the evidentiary force of the 20 January 1979 Deed of Sale which was ratified before a notary public, Atty. Luz Teves, who even testified in favor of the authenticity and genuineness of the document.

Petitioner spouses went to the Court of Appeals on a petition for certiorari insisting that it was error for the trial court not to have dismissed the complaint and to have declared valid the "falsified deed of sale." The Court of Appeals dismissed the appeal and held that the trial court could validly order the plaintiff to amend the complaint to conform with the requirements set forth in Art. 222 of the New Civil Code for as long as the amendment did not actually confer jurisdiction on the court in which the action was filed. The appellate court likewise upheld the findings of facts made by the trial court rationalizing that the latter was in a better position to analyze and assess the probative value of the evidence adduced during trial. Hence, this petition.

The principle is well-established that this Court is not a trier of facts. Therefore, in an appeal by certiorari under Rule 45 of *The Rules of Court*, only questions of law may be raised. The resolution of factual issues is the function of trial courts the findings of which on these matters are received with respect and are, as a rule, binding on this Court unless it is shown that they are grounded on speculations, surmises or conjectures.^[5] In the present case, whether the Deed of Sale dated 20 January 1979 is authentic and genuine, and whether petitioner spouses are bound to deliver the property object of the sale to private respondent are essentially factual issues and, after a prudent study of the contentions of both sides, we find no cogent reason to disturb the findings of the trial court which have been affirmed *in toto* by the Court of Appeals.

Indeed, under the law on sales the vendor is bound to transfer ownership of and deliver the thing object of the sale to the vendee.^[6] In the present case, although the sale was made through a public document and hence equivalent to delivery of the thing sold, petitioner Hermogena vehemently denied the fact of the sale and interposed her objection to private respondent's enjoyment of the property. As such, fiction must yield to reality and petitioner's obligation to deliver the sold portion of Lot No. 10561, or Lot No. 10561-A, to private respondent remains.

However, we take exception to the order of the courts *a quo* directing petitioner spouses to deliver to private respondent Nestoria de la Cruz one-half ($\frac{1}{2}$) of the building standing on Lot No. 10561. Although Nestoria is indeed the sole owner of a