

THIRD DIVISION

[G.R. No. 127593, September 30, 2003]

**CLARA C. DE LA CRUZ AND CLAUDIA C. MANADONG,
PETITIONERS, VS. COURT OF APPEALS AND ROSARIO OPANA,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

In the present petition for review on certiorari under Rule 45, petitioners Clara C. de la Cruz and Claudia C. Manadong assail the Decision^[1] dated May 14, 1996^[2] of the Court of Appeals in CA-G.R. CV No. 46524 which affirmed that of Branch 3 of the Regional Trial Court (RTC) of Guiuan, Eastern Samar in favor of respondent.

The case involves two parcels of land, one located in Bulajo, Mayana, Guiuan, Eastern Samar and the other in Surok, Guiuan, Eastern Samar.

Esteban, Andrea and Tomasa, all surnamed Cabsag, were siblings and are now all deceased.^[3]

Esteban is survived by his daughters-herein petitioners Clara C. de la Cruz and Claudia C. Manadong^[4] who have since 1972 been residing in Manila.^[5]

Andrea is survived by her children.^[6]

Tomasa, who died in 1963 without issue, was survived by her husband Eugenio Nadonga who later married respondent Rosario Opana. Eugenio Nadonga died in 1973.

Upon the death of Tomasa in 1963, her husband Eugenio Nadonga continued to live in Guiuan and occupy the lands in question until his death in 1973 upon which his second wife-herein respondent continued peaceful possession thereof until April 24, 1992 when Esteban's daughters-herein petitioners filed a complaint for partition^[7] against her before the RTC of Guiuan where it was docketed as Civil Case No. 765, now the subject of the present petition.

The questioned parcels of land were more particularly described in petitioners' complaint as follows:

1. An agricultural land situated at Bulajo, Mayana, Guiuan, E. Samar declared previously in the name of Tomasa Cabsag under Tax Declaration No. 29824 and at present declared under Tax Declaration No. 45509 in the name of Rosario Opana; bounded on the North by the land of Nicolas Calumpiano; on the East bounded by the land of Benito Lacro; on the South bounded by the land of

Sabino Lacro and on the West bounded by the land of Catalina Naing with a total area of 24,715 sq. m. and is assessed at P1,460.

2. An agricultural land situated at Brgy. Surok, Guiuan, E. Samar presently declared under Tax Declaration No. 38210 in the name of Rosario Opana; bounded on the North by the land of Ricardo Abrera; on the East bounded by the land of Alejandro Abrera; on the South bounded by the land of Federico Yodico and Pascual Yodico and on the West bounded by the land of Estefa Odang.

The complaint alleged that, *inter alia*, petitioners are the nieces and legal heirs of the late Tomasa Cabsag; that during the existence of the marriage of Eugenio Nadonga to his second wife—herein respondent, the couple, without the knowledge of petitioners, surreptitiously managed to have the above-described parcels of land declared in the name of respondent which fraudulent act came only to their recent knowledge; that petitioners, being the nieces of Eugenio Nadonga's first wife Tomasa Cabsag, have the right to demand the partition of the properties among the legal heirs; and that respondent's refusal to divide the properties constrained petitioners to litigate and incur expenses.

Denying the material allegations of the complaint, respondent, in her Answer,^[8] alleged that the questioned lands were, during the lifetime of her husband Eugenio Nadonga, donated to her by a "Deed of Donation" of June 4, 1965; that the real property described and located at Surok is covered by Original Certificate of Title (OCT) No. 8860 while that in Mayana is covered by Original Certificate of Title (OCT) No. 8859, both titles of which were issued in her name in 1974; that the first property was inherited from Nadonga's late father Miguel Nadonga, and the other was bought by him before his marriage to his first wife Tomasa; that assuming *arguendo* that they were Tomasa's paraphernal properties and that petitioners are indeed entitled to partition, petitioners' filing of the complaint only in 1992 amounts to laches, she (respondent) having been in actual possession of the lands in the concept of an owner since 1965 and she even had them registered in her name in 1974 without any positive action on petitioners' part.

During the trial, the identity of the two parcels of land as described in the complaint^[9] was raised in issue, private respondent maintaining that the territorial boundaries and description of the land situated in Mayana as they appeared in the complaint, are different and distinct from those owned by her. Thus, she declared, quoted *verbatim*:

x x x

ATTY. CABLAO [lawyer for the defense]:

From plaintiff (sic) document even in their complaint the land situated at Brgy. Mayana the boundaries are different because in the North the boundary is Nicolas Calumpiano whereas in the boundary of the defendant in the north is Teresa Naing.

COURT:

Yes, so there is a disparity.

x x x x^[10] (Underscoring supplied)

Maintaining that the property located in Mayana is theirs, petitioners presented Tax Declaration No. 29824 showing that it was originally declared in 1948 in the name of the late Tomasa Cabsag;^[11] Tax Declaration No. 40509 issued for the year 1974 in the name of the late Eugenio Nadonga;^[12] and Tax Declaration No. 45509 for the year 1977 in the name of herein respondent Rosario Opana.^[13]

As for their claim over the property in Surok, petitioners presented two documents denominated as "*Karigunan Ha Pag Ka Butungan*"^[14] (Deed of Absolute Sale) executed on May 11, 1950 and May 15, 1950, showing that the property covered thereby which had the following boundaries:

North - Ricardo Abrera
South - Federico Yodico and Pascual Yodico
West - Estefa Odang
East - Alejandro Abrera,

was sold to Tomasa Cabsag while she was still single and was thus her paraphernal property.^[15]

Upon the other hand, respondent offered the following documentary evidence: (a) Marriage Contract;^[16] Deed of Donation;^[17] OCT (Original Certificate of Title) No. 8859 covering the lot at Mayana;^[18] OCT No. 8860 covering the lot at Surok;^[19] Tax Receipt No. 1245524 M dated February 27, 1987;^[20] Tax Receipt No. 1260617 dated February 1, 1988;^[21] Tax Receipt No. 113551, dated March 18, 1991;^[22] Tax Receipt No. 3756906, dated March 25, 1992;^[23] Tax Receipt No. 1151234, dated February 17, 1993;^[24] Tax Receipt No. 5080280, dated March 9, 1981;^[25] Tax Receipt No. 1260625, dated February 1, 1988;^[26] Tax Receipt No. 1113519, dated March 11, 1991;^[27] Tax Receipt No. 3756907, dated March 25, 1992;^[28] Tax Declaration No. 45509.^[29]

By Decision of May 5, 1994, the trial court rendered judgment^[30] in favor of respondent, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the Defendant, Rosa Opana, and against the Plaintiffs, Clara C. de la Cruz and Claudia C. Manadong, DISMISSING the complaint with costs against the plaintiffs and DECLARING the Defendant the true, absolute and exclusive owner of the two (2) parcels of land described in the complaint and in the Original Certificate of Titles issued in the name of the Defendant. (Underscoring supplied)

IT IS SO ORDERED.

Dissatisfied, petitioners elevated the case to the Court of Appeals where it was docketed as CA-G.R. CV No. 46524.

Before the appellate court, petitioners raised the following errors:

(A) THE COURT A QUO ERRED IN SIMPLY DISMISSING THE COMPLAINT BY CLAIMING THAT IT IS PURELY OF

PARTITION, WITHOUT DETERMINING HEIRSHIP;

- (B) THE COURT A QUO SERIOUSLY ERRED WHEN IT DECLARED THAT ROSA OPANA IS THE TRUE, ABSOLUTE AND EXCLUSIVE OWNER OF THE TWO (2) PARCELS OF LAND DESCRIBED IN THE COMPLAINT;
- (C) THE COURT A QUO SERIOUSLY ERRED IN CLAIMING THAT APPELLANTS ARE BARRED BY LACHES IN THE SAME WAY THAT IT SERIOUSLY ERRED WHEN IT APPLIED THE CASE OF "RODRIGUEZ VS. RAVILAN, 17 PHIL 63."

The appellate court, by the decision on review, affirmed the trial court's decision, it ratiocinating as follows:

As shown by the record, the late Eugenio Nadonga executed a Deed of Donation dated June 4, 1965 in favor of the defendant Rosario Opana over two (2) parcels of land, one of which he inherited from his late father Miguel Nadonga, and the other he bought before he got married to his first wife Tomasa Cabsag. The Deed of Donation was acknowledged before a notary public and transmitted all his rights to the donee who accepted the donation.

As a matter of fact, the defendant Opana had said parcels of land registered in her name and as early as 1974 obtained original certificate of titles over the same.

In the instant case, even assuming that Tomasa Cabsag owned the disputed parcel of land as claimed by the plaintiffs upon her death, her surviving spouse Eugenio Nadonga became the owner of the property by law of intestate succession (Art. 995, Civil Code). When the said surviving spouse executed a Deed of Donation in favor of the defendant Rosario Opana, he had the right to donate the properties and ownership passed to the latter. x x x

Petitioners' motion for reconsideration^[31] having been denied by the appellate court by Resolution of December 5, 1996,^[32] the present petition was filed posing the following question:

IS IT WITHIN THE JURISDICTION OF THE TRIAL COURT TO RULE ON THE OWNERSHIP OF THE PARCELS OF LAND IN QUESTION IN TH[ESE] PROCEEDINGS?

Petitioners insist that what they filed before the trial court was one for probate — the settlement of the estate of Tomasa Cabsag, the complaint's denomination as one for partition notwithstanding; that the declaration by the trial court that respondent is the "true, absolute and exclusive owner of the two (2) parcels of land described in the complaint and in the Original Certificate of Titles issued in the name of the Defendant," which was affirmed by the Court of Appeals, was rendered without or in excess of jurisdiction, for as the case is one for probate, it necessitated the initial determination and identification of the heirs of Tomasa Cabsag which the trial court failed to do.