

CERTIFIED TRUE COPY

*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division



Republic of the Philippines  
Supreme Court  
Manila

JUL 26 2017

THIRD DIVISION

ABIGAIL L. MENDIOLA,  
Petitioner,

G.R. No. 205283

Present:

VELASCO, JR., J.,  
Chairperson,  
BERSAMIN,  
REYES,  
JARDELEZA, and  
TIJAM, JJ.

- versus -

VENERANDO P. SANGALANG,  
Respondent.

Promulgated:

June 7, 2017

*Wilfredo V. Lapitan*

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DECISION

TIJAM, J.:

Assailed in this Petition for Review<sup>1</sup> under Rule 45 are the Decision<sup>2</sup> dated March 23, 2012 and Resolution<sup>3</sup> dated January 15, 2013 of the Court of Appeals<sup>4</sup> (CA) in CA-G.R. CV No. 91072 which affirmed the Decision<sup>5</sup> of the Regional Trial Court (RTC)<sup>6</sup>, Branch 218 in Quezon City, dismissing petitioner's *accion publiciana* for failure to prove the better right of possession.

<sup>1</sup> Rollo, pp. 7-21, with Annexes.

<sup>2</sup> Id. at 53-65.

<sup>3</sup> Id. at 67-69.

<sup>4</sup> Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Franchito N. Diamante and Myra G. Fernandez.

<sup>5</sup> Entitled "*Abigail L. Mendiola & Vilma L. Aquino (a.k.a. Vilma L. Sapida), Plaintiffs, versus Venerando P. Sangalang, Defendant*" and docketed as Civil Case No. Q-05-56563; Rollo, pp. 45-49.

<sup>6</sup> Penned by Judge Hilario L. Laqui.

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### The Antecedent Facts

The property subject of the instant controversy is a parcel of land located at No. 104 Maginhawa Street, Brgy. Teachers Village East, Diliman, Quezon City, on which a residential house and a four-door, one-storey commercial building were built. Said property was originally registered in the name of Honorata G. Sangalang (Honorata).<sup>7</sup>

Honorata had two siblings, Sinforosa and Angel. Sinforosa had three children, petitioner Abigail Mendiola, Vilma Aquino (Vilma) and Azucena De Leon; while Angel begot four children, respondent Venerando, Ma. Lourdes, Angelino and Fernando, all surnamed Sangalang. Sinforosa and Angel predeceased Honorata, and on May 31, 1994, Honorata herself died intestate without any issue.<sup>8</sup>

While Honorata was still alive, one-half of the residential house of the subject property was being used by petitioner and the other half by Vilma's son. The commercial building, on the other hand, was being leased to third persons. This set-up continued until after Honorata's death.<sup>9</sup>

In 2003, respondent and his siblings discovered that the subject property was already registered in the names of petitioner and Vilma. Upon verification, they discovered that the title over the property had been transferred in favor of petitioner and Vilma by virtue of a Deed of Sale dated January 29, 1996 purportedly executed by Honorata in their favor. Consequently, a new title, TCT No. N-148021<sup>10</sup>, was issued in the names<sup>11</sup> of petitioner and Vilma.

It was around this time, or in July 2003, after Vilma's son left the residential house, that respondent, allegedly without asking permission from the petitioner or Vilma and with the use of force and violence upon things, broke open the door of the unit and had since detained the same.<sup>12</sup>

On April 11, 2005, petitioner and Vilma demanded that respondent vacate the unit but the latter refused to do so.<sup>13</sup> The dispute was referred to the *barangay* for conciliation but no settlement was reached.<sup>14</sup> Consequently, on October 18, 2005, petitioner and Vilma commenced their complaint<sup>15</sup> for

<sup>7</sup> See Answer; *Rollo*, p. 30.

<sup>8</sup> *Supra* note 5, at 46.

<sup>9</sup> *Id.*

<sup>10</sup> *Rollo*, p. 26.

<sup>11</sup> *Supra* note 8.

<sup>12</sup> *Id.* at 45.

<sup>13</sup> *Rollo*, p. 27.

<sup>14</sup> *Id.* at p. 28.

<sup>15</sup> *Id.* at 23-25.

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*accion publiciana* against respondent for the latter to return the illegally occupied unit and to pay reasonable rental therefor.

In his Answer,<sup>16</sup> respondent claimed that as heirs of Honorata, they all have become co-owners in equal undivided shares of the subject property. Respondent further disputes the Deed of Sale through which ownership over the property was transferred to the petitioner and Vilma, since the same was executed only in 1996 after Honorata died in 1994.

### The Ruling of the RTC

On November 15, 2007, the RTC rendered its Decision<sup>17</sup> dismissing the complaint. The trial court noted that since respondent raised the defense of co-ownership, the case was converted from *accion publiciana* to *accion reivindicatoria*. It further noted that since it is undisputed that the parties are all heirs of Honorata, then they all have an equal right thereto. Finally, the trial court noted that the resolution of the criminal complaint for falsification lodged by respondent against the petitioner and Vilma constitutes a prejudicial question to the complaint.<sup>18</sup>

The RTC thus disposed:

**WHEREFORE**, finding that the plaintiffs failed to discharge their burden of proof that they have better right to the property in dispute, the complaint is hereby DISMISSED. However, plaintiffs are ordered to pay, jointly and severally, the defendant, the amount of P10,000.00 as and by way of attorney's fees.

**SO ORDERED.**<sup>19</sup> ;

Petitioner and Vilma's motion for reconsideration was similarly rebuffed by the trial court.<sup>20</sup> Undaunted, they elevated the case to the CA on appeal raising as sole error the trial court's conversion of the complaint from *accion publiciana* to *accion reivindicatoria* and in consequently ruling in favor of respondent. They insisted that they do not seek to recover ownership of the subject property but merely its possession.<sup>21</sup>

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<sup>16</sup> Id. at 29-42.

<sup>17</sup> Supra note 5.

<sup>18</sup> Id. at 48.

<sup>19</sup> Supra note 5, at 48-49.

<sup>20</sup> See Resolution dated February 14, 2008; *Rollo*, pp. 51-52.

<sup>21</sup> Id. at 57.

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### The Ruling of the CA

The CA denied the appeal.<sup>22</sup> While the appellate court disagreed with the trial court when it converted the complaint to *accion reivindicatoria*, it nevertheless agreed with the trial court when it dismissed the complaint for *accion publiciana*, for failure to prove the better right of possession. In provisionally passing upon the issue of ownership to resolve the issue of possession, the CA held that the parties, being co-owners *pro indiviso* of the subject property, have equal right to possess the same.<sup>23</sup>

Accordingly, the CA disposed:

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED**. The decision of the RTC of Quezon City, Branch 218 dated 15 November 2007 is **AFFIRMED**, not because the case was deemed converted to an *accion reivindicatoria* but for the reason that plaintiffs-appellants failed to prove that they have the better right of possession over the property.

**SO ORDERED.**<sup>24</sup>

Petitioner and Vilma's motion for reconsideration suffered the same rejection from the CA.<sup>25</sup> Hence, the instant petition filed solely by the petitioner.

### The Issue

The point of inquiry is whether the petitioner has the better right of possession over the subject property as to successfully evict respondent.

### The Ruling of this Court

The petition is devoid of merit.

In arriving at its identical pronouncement that petitioner failed to prove her better right of possession, the RTC and the CA passed upon the parties' respective claim of ownership, a procedure that is sanctioned under Section 16,<sup>26</sup> Rule 70. It is settled that the issue of ownership may be resolved only to determine the issue of possession.

To prove their right of possession, petitioner and Vilma harp on their claim as registered owners while respondent claims entitlement thereto as a

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<sup>22</sup> Supra, note 2.

<sup>23</sup> Id. at 63.

<sup>24</sup> Id. at 64.

<sup>25</sup> Supra, note 3.

<sup>26</sup> Sec. 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

co-heir. We find no error when the RTC and the CA decided the case in favor of respondent.

In this case, it is undisputed that the Deed of Sale, through which ownership over the property had been purportedly transferred to the petitioner and Vilma, was executed in 1996. However, it is perfectly obvious that Honorata could not have signed the same as she passed away as early as 1994. If any, Honorata's signature thereon could only be a product of forgery. This makes the Deed of Sale void and as such, produces no civil effect; and it does not create, modify, or extinguish a juridical relation.

The Court cannot simply close its eyes against such patent defect on the argument that registered owners of a property are entitled to its possession.

While it is true that petitioner and Vilma have in their favor a Torrens title over the property, it is nonetheless equally true that they acquired no right under the void Deed of Sale. Indeed, when the instrument presented is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the assignee in the forged deed acquire any right or title to the property.<sup>27</sup>

In *Spouses Reyes v. Montemayor*,<sup>28</sup> the Court explains:

Insofar as a person who fraudulently obtained a property is concerned, the registration of the property in said person's name would not be sufficient to vest in him or her the title to the property. A certificate of title merely confirms or records title already existing and vested. The indefeasibility of the Torrens' title should not be used as a means to perpetrate fraud against the rightful owner of real property. Good faith must concur with registration because, otherwise, registration would be an exercise in futility. A Torrens title does not furnish a shield for fraud, notwithstanding the long-standing rule that registration is a constructive notice of title binding upon the whole world. The legal principle is that if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee.<sup>29</sup>

Neither can the argument that a certificate of title is not subject to collateral attack would persuade Us to rule otherwise. With the determination that petitioner and Vilma's title is void, the issue as to whether it is subject to direct or collateral attack is no longer relevant. Settled is the rule that an action to declare the nullity of a void title does not

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<sup>27</sup> *Heirs of Victorino Sarili v. Lagrosa*, G.R. No. 193517, January 15, 2014, 713 SCRA 726, 739-740, citing *Spouses Bernales v. Heirs of Julian Sambaan*, 624 Phil. 88 (2010).

<sup>28</sup> 614 Phil. 256, 274-275 (2009).

<sup>29</sup> *Id.*

prescribe and is susceptible to direct, as well as to collateral attack.<sup>30</sup> Hence, respondent is not precluded from questioning the validity of the petitioner and Vilma's title in the *accion publiciana*.<sup>31</sup>

A necessary and logical consequence of the foregoing pronouncements is that, title over the property remained in the name of Honorata as original registered owner thereof. By theory of succession, petitioner and respondent are co-owners of the property and equally entitled to possession thereof, either *de facto* or *de jure*. As such, petitioner and Vilma had no right to exclude respondent from enjoying possession thereof through a possessory action.

Finally, there being no further argument against the award of attorney's fees, We have no resort but to affirm the same.

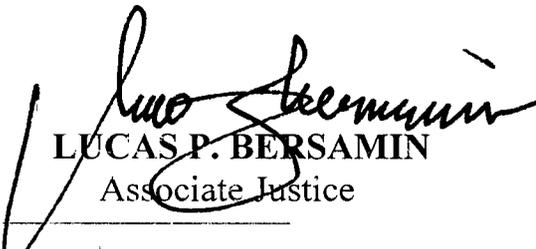
**WHEREFORE**, the petition is **DENIED**. The Decision dated March 23, 2012 and Resolution dated January 15, 2013 of the Court of Appeals in CA G.R. CV No. 91072 dismissing petitioner's complaint for *accion publiciana* and awarding attorney's fees in respondent's favor are **AFFIRMED in toto**.

**SO ORDERED.**

  
NOEL GIMENEZ TIJAM  
Associate Justice

**WE CONCUR:**

  
PRESBITERO J. VELASCO, JR.  
Associate Justice  
Chairperson

  
LUCAS P. BERSAMIN  
Associate Justice

  
BIENVENIDO L. REYES  
Associate Justice

<sup>30</sup> *Spouses De Guzman v. Agbagala*, 569 Phil. 607, 614 (2008).

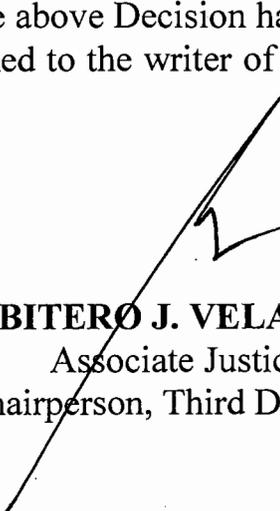
<sup>31</sup> *Romero and Domingo v. Singson*, G.R. No. 200969, August 3, 2015.



**FRANCIS H. JARDELEZA**  
Associate Justice

**A T T E S T A T I O N**

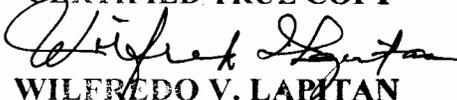
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**C E R T I F I C A T I O N**

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

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division  
JUL 26 2017



**MARIA LOURDES P. A. SERENO**  
Chief Justice