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moral damages must be awarded in favor of the heirs of the victim even in the absence of any allegation and proof of the heirs' emotional suffering.

As to all other matters, the Court deems it proper not to disturb the findings of the trial court as they are sufficiently supported by evidence.

WHEREFORE, the judgment appealed from is hereby *AFFIRMED* with the sole *MODIFICATION* that the amount of moral damages is increased to ₱50,000.00.

SO ORDERED.

Bellosillo, J. (Chairman), Mendoza, and *Quisumbing JJ.*, concur.

SECOND DIVISION

[G.R. No. 148943. August 15, 2002]

AGNES GAPACAN, EUGENIA GAPACAN-KIAKI and MARILYN GAPACAN, *petitioners, vs.* **MARIA GAPACAN OMIPET,** *respondent.*

SYNOPSIS

Paicat Gapacan, a native Igorot of the Kankanai tribe, was the primitive possessor of an unregistered land with an area of 1.0111 hectares situated in Abatan, Bauko, Mt. Province, divided into three (3) parcels of rice land and another parcel planted to *camote*, and declared by him for taxation purposes for the first time on 27 March 1931. Paicat had two (2) children, Maria and Antonio, both surnamed Gapacan. Antonio left Abatan to try his luck in the mine fields of Mankayan, Benguet Province. Consequently, his sister Maria, herein petitioner, who remained in Abatan, took care of their aging father until his

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death during the Second World War and eventually took over the cultivation of their father's land. Antonio married Agnes Gapacan and begot two (2) daughters, Eugenia Gapacan and Marilyn Gapacan, with her, herein petitioners. After he retired from the mines, Antonio and his family returned to Abatan. Petitioners claimed ownership of the disputed agricultural field which they asserted was covered by a tax declaration in the name of the late Antonio Gapacan. Respondent Maria Gapacan Omipet filed a complaint for *Quieting of Title* before the proper Regional Trial Court praying that she be declared the lawful owner of the property and that herein petitioners be ordered to refrain from making further encroachments thereon. The trial court dismissed the complaint and adjudged petitioners to have the right of possession over the disputed parcel of land. Respondent Maria Gapacan Omipet appealed to the Court of Appeals. The appellate court rendered the assailed Decision declaring the subject property to be the common property of both respondent Maria Gapacan Omipet and petitioners Agnes Gapacan, Eugenia Gapacan-Kiaki and Marilyn Gapacan. It also ordered the equitable partition of the disputed property between the two (2) contending parties. Hence, the present petition.

The Supreme Court found petitioners' contention bereft of merit. Article 476 of the Civil Code provides that an action to quiet title may be brought when there exists a cloud on the title to real property or any interest therein. The Court stressed that the appellate court is well within its authority in resolving the present controversy to adjudicate on the respective rights of the parties, that is, to pass upon the ownership of the subject property; hence to declare the same as common property of the party-litigants. Besides, private respondent Maria Gapacan Omipet instituted the action for quieting of title for the purpose of asking the court to pass judgment upon the issue of ownership of the disputed property with the hope that she would be declared its rightful owner. On the question of the right of possession, the Court upheld the appellate court that the evidence preponderates in favor of Antonio Gapacan and subsequently his heirs, herein petitioners, upon his death. It was clearly established that Antonio and his family had been in possession of the subject realty since 1971. However, Antonio could not honestly claim the rights of a possessor in good faith since his tax declarations, and more so, his *Affidavit of Transfer of Real Property*, were either spurious or founded

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on false and unlawful claims. The parcels of land in question, as part of the hereditaments of Paicat, a common ancestor of Maria and Antonio, were given to neither of them in particular. As the two (2) surviving heirs of Paicat Gapacan, neither Maria nor Antonio can claim absolute ownership over the entire property to the prejudice of the other, for each, in legal contemplation, is entitled to only one-half (½) pro-indiviso share of his or her father's estate. Prior to partition, Maria and Antonio, and upon the latter's death, the petitioners, hold the disputed property in their capacity as co-owners.

SYLLABUS

1. CIVIL LAW; OWNERSHIP; ACTION FOR QUIETING OF TITLE; COURTS MAY ADJUDICATE ON RESPECTIVE RIGHTS OF PARTIES.— Article 476 of the Civil Code provides that an action to quiet title may be brought when there exists a cloud on the title to real property or any interest therein. In the early case of *Bautista v. Exconde*, we held that a property owner whose property rights were being disturbed may ask a competent court for a proper determination of the respective rights of the party-claimants, not only to place things in their proper place, that is, to require the one who has no right to refrain from acts injurious to the peaceful enjoyment of the property not only of the rightful owner but also for the benefit of both with the view of dissipating any cloud of doubt over the property. It goes without saying therefore that the appellate court in resolving the present controversy is well within its authority to adjudicate on the respective rights of the parties, that is, to pass upon the ownership of the subject property; hence to declare the same as common property of the party-litigants. Besides, private respondent Maria Gapacan Omipet instituted the present action for the purpose of asking the court to pass judgment upon the issue of ownership of the disputed property with the hope that she would be declared its rightful owner.

2. ID.; ID.; ID.; TAX DECLARATIONS PRESENTED IN EVIDENCE CLEARLY FOUNDED ON FRAUDULENT CLAIMS OF OWNERSHIP AND DO NOT MERIT ANY PROBATIVE VALUE; CASE AT BAR.— Private respondent anchors her claim of absolute dominion over the subject property on the ground that she inherited the same from her parents, further

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noting that the family of Antonio Gapacan possessed the property by reason alone of her tolerance. In view of this claim, it was incumbent upon private respondent to prove by satisfactory evidence that she was legally designated the sole owner of the property in litigation. Unfortunately, there was paucity of proof that that in fact was the case. The tax declarations private respondent presented in evidence were clearly founded on fraudulent claims of ownership which did not merit any probative value. Evidently, those tax declarations not only covered a mere fraction of the total area disputed but were based on a false and capricious assertion of ownership over the entire subject property. The tax declarations therefore were secured for the exclusive purpose of excluding Antonio, the other legal heir. To be sure, tax declarations in themselves do not vest absolute ownership of the property upon the declarant, nor do declarations of ownership for taxation purposes constitute adequate evidence of ownership or of the right to possess realty. Further, the testimonies given by private respondent's witnesses buttressing her claim of dominion were adjudged, and rightly so, as inconclusive and of dubious reliability by both the trial court and the Court of Appeals.

3. ID.; ID.; ID.; EXISTENCE OF CO-OWNERSHIP UPHELD IN CASE AT BAR.— On the question of the right of possession, as correctly pointed out by the appellate court, the evidence preponderates in favor of Antonio Gapacan and subsequently his heirs upon his death. It has been clearly established that Antonio and his family had been in possession of the subject realty since 1971. However, Antonio could not honestly claim the rights of a possessor in good faith since his tax declarations, and more so, his *Affidavit of Transfer of Real Property*, were either spurious or founded on false and unlawful claims. The parcels of land in question, as part of the hereditaments of Paicat, a common ancestor of Maria and Antonio, were given to neither of them in particular. It is difficult to believe that Maria and Antonio were blissfully ignorant of their respective legal rights over the disputed realty. As the two (2) surviving heirs of Paicat Gapacan, neither Maria nor Antonio can claim absolute ownership over the entire property to the prejudice of the other, for each, in legal contemplation, is entitled to only one-half (1/2) pro-indiviso share of his or her father's estate. Prior to partition, Maria and Antonio, and upon the latter's death, the petitioners, hold the disputed property in their capacity as co-

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owners. In *Consignado v. Court of Appeals* it was explained that "the juridical concept of co-ownership is unity of the object or property and plurality of subjects x x x Each co-owner, jointly with the other co-owners, is the owner of the whole property, but at the same time of the undivided aliquot part x x x Each co-owner has the right to sell, assign or dispose of his share, unless personal rights are involved x x x and therefore, he may lose such rights to others, as by prescription thereof by a co-owner x x x" The Court, after a thorough review of the records, finds no plausible reason to disturb the findings and conclusions of the Court of Appeals in its assailed Decision.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioner.
Fernando Law Office for private respondent.

D E C I S I O N

BELLOSILLO, *J.*:

Man is bound to his land and will remain so; it is source of his strength, the fountainhead of his life. Yet ownership of this natural resource does not always insure harmony, security and well-being, for many a time it causes divisiveness and dissension within the community, even among the closest of kin. This case depicts the situation contemplated herein.

Paicat Gapacan, a native Igorot of the Kankanai tribe, was the primitive possessor of an unregistered land with an area of 1.0111 hectares situated in Abatan, Bauko, Mt. Province, divided into three (3) parcels of rice land and another parcel planted to *camote*, and declared by him for taxation purposes for the first time on 27 March 1931.[1] Paicat had two (2) children, Maria and Antonio both surnamed Gapacan.

In his adulthood, Antonio left Abatan to try his luck in the mine fields of Mankayan, Benguet Province. Consequently, his

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[1] Exh. "B".

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sister Maria who remained in Abatan took care of their aging father until his death during the Second World War and eventually took over the cultivation of their father's land.

It came to pass that Antonio married Agnes Gapacan and begot two (2) daughters, Eugenia Gapacan and Marilyn Gapacan, with her. After he retired from the mines, Antonio and his family returned to Abatan. On 15 June 1954, Antonio executed an *Affidavit of Transfer of Real Property* showing that the property described under Tax Declarations Nos. 0808 and 37642 had been transferred to him by his sister Maria Gapacan, making him in effect the legal owner of the property in question. The *Affidavit of Transfer of Real Property* was allegedly thumbmarked by Maria's husband, Pedro Omipet, in her behalf.[2] Thus, by virtue of the *Affidavit of Transfer of Real Property*, Antonio had the property in question declared in his name for taxation purposes in 1954.[3] Since then, Agnes Gapacan and her daughters Eugenia and Marilyn had been occupying and cultivating the three (3) parcels of rice land and a parcel devoted to *camote* subject matter of the present controversy.

Sometime in the second week of April 1992 Maria hired the services of Orlando Boleyley and Gaston Gapacan to clear and cultivate some portions of the contested land but they were stopped by petitioners. Petitioners even went to the extent of filing a case for *Forcible Entry* against Maria's granddaughter Gertrude Beguil and three (3) others before the Municipal Circuit Trial Court of Bauko-Sabangan, Mt. Province.

Petitioners alleged ownership of the disputed agricultural field which they claimed was covered by a tax declaration in the name of the late Antonio Gapacan. Because of the failure of the defendants to file their respective answers to the complaint within the reglementary period, the Municipal Circuit Trial Court rendered a decision on 16 September 1992 ordering defendants

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[2] Exh. "1"

[3] Exhs. "2 " to "8".

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to vacate the land in dispute and restore possession thereof to the plaintiffs.[4]

On 9 December 1992 respondent Maria Gapacan Omipet filed a complaint for *Quieting of Title* before the proper Regional Trial Court praying that she be declared the lawful owner of the property and that herein petitioners be ordered to refrain from making further encroachments thereon.

At the time of the filing of the complaint for *Quieting of Title*, Maria who could neither read nor write was already a very old woman.[5] She alleged in her complaint that the disputed land was part of her inheritance from her deceased parents which she in fact had declared in her name for taxation purposes in 1948 although the area was only 1,188 square meters for which Tax Declaration No. A-0808 was issued in her name.[6] She further contended that she merely lent the parcels of rice land to petitioners when Antonio Gapacan returned to Abatan after his retirement.

On 6 May 1994 the trial court dismissed the complaint and adjudged defendants, herein petitioners, to have the right of possession over the parcel of land delineated as Lot 1. It likewise enjoined private respondent Maria Gapacan Omipet from performing acts injurious or prejudicial to the possession of the premises by petitioners, explaining that —

> x x x the bare assertions of Maria Omipet that she directly inherited the contested area from her parents is insufficient to sustain her position. Coming from the plaintiff herself, her testimony on the matter is self-serving and hence unreliable as the better part of judicial prudence dictates. The declarations of the plaintiff to the end that she has been the actual possessor of the land subject hereof for the last three decades and that she merely lent the parcels of rice paddies in question to the defendants, albeit confirmed in the sense by her

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[4] Original Records, p. 119.

[5] At the trial before the RTC-Br. 36, Bontoc, Mt. Province, on 16 July 1993, respondent testified that she was 90 years old and a widow.

[6] Exh. "A".

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witnesses, are not very convincing x x x x Aside from the observation that being a party to the case Maria Omipet is pre-disposed to report matters as they are wished for, rather than as they really are; the confirmatory statements of witnesses Baguil, Locaney, Tambol, Dilem and Astudillo on the point are much too superficial, transparently mechanical, and palpably biased to be judiciously persuasive. Baguil has the most to gain or lose pending the outcome of this proceeding. Locaney and Timbol on account of close blood ties or gratitude to the plaintiff are discernibly partisans of the latter. While Dilem and Astudillo merely mouthed their lines without emotional authenticity. By and large, the testimonies of the plaintiff and all her witnesses in this suit, although under oath, are simply difficult to swallow, hook, line and sinker.[7]

Maria Gapacan Omipet appealed to the Court of Appeals alleging that the trial court (a) "unreasonably erred in brushing aside the coherent testimony of plaintiff-appellant x x x and her credible and unbiased witnesses, and in failing to give credence to her possession and ownership of the land in question, as substantiated by her actual and existing improvements found on the land in question"; and (b) failed to declare the documentary evidence of the heirs of Antonio Gapacan as null and void.[8]

On 12 March 2001 the Court of Appeals rendered the assailed Decision declaring the property described as Lot 1 in the Sketch Plan[9] to be the common property of both plaintiff-appellant Maria Gapacan Omipet and defendant-appellees Agnes Gapacan, Eugenia Gapacan-Kiaki and Marilyn Gapacan. It also ordered the equitable partition of the disputed property between the two (2) contending parties.[10]

The appellate court made the following preliminary declarations: (a) nullifying Tax Declaration No. A-0808 in the

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[7] Decision penned by Judge Artemio B. Marrero, RTC-Br. 36, Bontoc, Mt. Province; *Rollo*, p. 30.

[8] *Rollo*, Annex "D".

[9] Exh. "14".

[10] Decision penned by Associate Justice Hilarion L. Aquino with Associate Justices Mercedes Gozo-Dodole and Jose L. Sabio, Jr.; *Rollo*, p. 80.

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name of Maria Gapacan Omipet which covered only 1,188 square meters or 12% of the total area of the land in question (Exh. "A") as it was unlawfully secured by her to the exclusion of her brother Antonio Gapacan; (b) nullifying Tax Declaration No. A-9844 (Exh. "2") in the name of Antonio Gapacan and the tax declarations as these were based among others on an *Affidavit of Transfer of Real Property* which was void as the purported transfer was not signed by Maria Gapacan Omipet; (c) nullifying Tax Declaration No. 36555 (Exh. "5") in the name of Antonio Gapacan and all tax declarations that revised it because these were based upon a false information that the property was being declared for the first time and was intended to lay the legal basis for the illegal claim by Antonio Gapacan that he was the sole owner of the disputed property; and finally, (d) denying probative value to the *Agreement* (Exh. "10") because it was based upon void tax declarations and false claims of dominion and right of possession over the land in question.

On the right of possession, the appellate court opined that although Antonio Gapacan during his lifetime and his heirs upon his death had been in actual possession of the rice lands in question except the "*camote*" land since 1971 their possession was tainted with bad faith since —

> Antonio knew that the property was his father's. His father did not give it to either of his children, the latter's claims to the contrary notwithstanding. Antonio, of course, knew that Maria was legally entitled to a share in said property so that when he fraudulently caused the execution of the Affidavit of Transfer of Real Property and the issuance in his name of T.D. No. H-9844 (Exhibit 2) he acted in gross bad faith (Art. 256, Civil Code).

By virtue of the evident bad faith of both parties, the Court of Appeals ruled that the fruits of the land in question, which they appropriated for themselves, compensated each other which rendered the need for an accounting irrelevant.

In view thereof, the appellate court declared Lot 1 in the Sketch Plan as common property of plaintiff-appellant Maria Gapacan Omipet on one hand, and defendant-appellees Agnes Gapacan, Eugenia Gapacan-Kiaki and Marilyn Gapacan on

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the other; and ordered the fair and equitable partition of Lot 1 with one-half for plaintiff-appellant and the other for defendant-appellees.

Their *Motion for Reconsideration* having been denied on 4 July 2001, petitioners now interpose the present petition for review seeking the reversal of the Decision of the Court of Appeals of 12 March 2001 which declared an unregistered parcel of land identified in the Sketch Plan as Lot 1 the common property of both petitioners Agnes Gapacan, Eugenia Gapacan-Kiaki and Marilyn Gapacan on one hand, and private respondent Maria Gapacan Omipet on the other, and its subsequent *Resolution* of 4 July 2001 denying petitioners' *Motion for Reconsideration*.

The following facts appear undisputed: that the subject parcels of land were originally owned by Paicat Gapacan who upon his death was survived by his two (2) children, private respondent Maria Gapacan, and Antonio Gapacan; that the subject realty consisted of three (3) parcels of rice land and another parcel planted to *camote* with a total approximate area of 1.0111 hectares known as Lot 1 in the Sketch Plan;[11] that the land was part of the ten (10) parcels allegedly given to private respondent by her parents, seven (7) of which had already been distributed by her among her children and other relatives; that in 1948, a portion of 1,188 square meters of the total land area was tax-declared by private respondent under Tax Declaration No. A-0808; that sometime in 1954 Antonio Gapacan caused the cancellation of the tax declaration in the name of Maria Omipet and transferred the subject property in his name by virtue of an *Affidavit of Transfer of Real Property*; and, that on the basis of the *Affidavit of Transfer of Real Property*, Antonio also caused the land to be declared in his name for taxation purposes as reflected in Tax Declaration No. A-9844.

Petitioners, as heirs and successors-in-interest of the late Antonio Gapacan, argue that this case stemmed from a complaint

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[11] Prepared by Tax Mappers of the Office of the Provincial Assessor during the ocular inspection of the area per court order.

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for *Quieting of Title* filed by private respondent, and on the basis of Art. 477 of the Civil Code which requires the plaintiff to show legal or equitable title to, or interest in the subject real property, the trial court was correct in ruling that private respondent had not sufficiently shown that she had the legal, *i.e.*, registered, title over the disputed property. Thus, according to them, the ruling of the Court of Appeals declaring the subject land as the common property of the party-litigants and ordering its partition is a complete deviation from the cause of action of the case and the findings of fact of the trial court. They now pray for the reinstatement of the decision of the trial court insofar as it ruled that they had the right of possession over the disputed land.

The argument is bereft of merit. Article 476 of the Civil Code provides that an action to quiet title may be brought when there exists a cloud on the title to real property or any interest therein. In the early case of *Bautista v. Exconde*,[12] we held that a property owner whose property rights were being disturbed may ask a competent court for a proper determination of the respective rights of the party-claimants, not only to place things in their proper place, that is, to require the one who has no right to refrain from acts injurious to the peaceful enjoyment of the property not only of the rightful owner but also for the benefit of both with the view of dissipating any cloud of doubt over the property. It goes without saying therefore that the appellate court in resolving the present controversy is well within its authority to adjudicate on the respective rights of the parties, that is, to pass upon the ownership of the subject property; hence to declare the same as common property of the party-litigants. Besides, private respondent Maria Gapacan Omipet instituted the present action for the purpose of asking the court to pass judgment upon the issue of ownership of the disputed property with the hope that she would be declared its rightful owner.

Private respondent anchors her claim of absolute dominion over the subject property on the ground that she inherited the

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[12] 70 Phil. 398 (1940).

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same from her parents, further noting that the family of Antonio Gapacan possessed the property by reason alone of her tolerance. In view of this claim, it was incumbent upon private respondent to prove by satisfactory evidence that she was legally designated the sole owner of the property in litigation. Unfortunately, there was paucity of proof that that in fact was the case. The tax declarations private respondent presented in evidence were clearly founded on fraudulent claims of ownership which did not merit any probative value. Evidently, those tax declarations not only covered a mere fraction of the total area disputed but were based on a false and capricious assertion of ownership over the entire subject property. The tax declarations therefore were secured for the exclusive purpose of excluding Antonio, the other legal heir. To be sure, tax declarations in themselves do not vest absolute ownership of the property upon the declarant, nor do declarations of ownership for taxation purposes constitute adequate evidence of ownership or of the right to possess realty. Further, the testimonies given by private respondent's witnesses buttressing her claim of dominion were adjudged, and rightly so, as inconclusive and of dubious reliability by both the trial court and the Court of Appeals.

On the question of the right of possession, as correctly pointed out by the appellate court, the evidence preponderates in favor of Antonio Gapacan and subsequently his heirs upon his death. It has been clearly established that Antonio and his family had been in possession of the subject realty since 1971. However, Antonio could not honestly claim the rights of a possessor in good faith since his tax declarations, and more so, his *Affidavit of Transfer of Real Property*, were either spurious or founded on false and unlawful claims. The parcels of land in question, as part of the hereditaments of Paicat, a common ancestor of Maria and Antonio, were given to neither of them in particular. It is difficult to believe that Maria and Antonio were blissfully ignorant of their respective legal rights over the disputed realty. As the two (2) surviving heirs of Paicat Gapacan, neither Maria nor Antonio can claim absolute ownership over the entire property to the prejudice of the other, for each, in legal contemplation, is entitled to only one-half (½) pro-indiviso share of his or her

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father's estate. Prior to partition, Maria and Antonio, and upon the latter's death, the petitioners, hold the disputed property in their capacity as co-owners.

In *Consignado v. Court of Appeals*[13] it was explained that "the juridical concept of co-ownership is unity of the object or property and plurality of subjects x x x x Each co-owner, jointly with the other co-owners, is the owner of the whole property, but at the same time of the undivided aliquot part x x x x Each co-owner has the right to sell, assign or dispose of his share, unless personal rights are involved x x x and therefore, he may lose such rights to others, as by prescription thereof by a co-owner x x x x" The Court, after a thorough review of the records, finds no plausible reason to disturb the findings and conclusions of the Court of Appeals in its assailed Decision.

WHEREFORE, the petition is *DENIED* for lack of merit. The Decision of the Court of Appeals dated 12 March 2001, which declared Lot 1 in the Sketch Plan[14] as the common property of both petitioners Agnes Gapacan, Eugenia Gapacan-Kiaki and Marilyn Gapacan on one hand, and private respondent Maria Gapacan Omipet on the other, and ordered its equitable partition between the contending parties, as well as the Resolution dated 4 July 2001 denying reconsideration, is *AFFIRMED*. No costs.

SO ORDERED.

Mendoza, Quisumbing, and *Corona, JJ.,* concur.

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[13] G.R. No. 87148, 18 March 1992, 207 SCRA 297, 304.

[14] See Note 9.