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There is likewise disregard of the rank of the victim as *barrio* captain, which appellants knew. It was precisely because he was the *barrio* captain that the victim instructed appellant Rodolfo Talay to restore the two missing cocks to their owner, who complained to him that appellant Rodolfo stole his two cocks. The appellants killed the *barrio* captain, but did not resent the act of Pedro Dinglasan denouncing appellant Rodolfo for theft.

FIRST DIVISION

[G.R. No. L-30019. November 28, 1980]

AGRIPINA BERNARDO, CONSTANTINO DE LEON AND RITA BERNARDO, *petitioners, vs.* **COURT OF APPEALS, LAUREANO BERNARDO, ELENA BERNARDO, CIPRIANO BERNARDO, ELADIO DE LEON Y BERNARDO AND SANTOS BERNARDO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; COURTS; COURT OF APPEALS; POWERS; POWER TO CHANGE ITS ORIGINAL DECISION.— One of the inherent powers of the Court of Appeals is "To amend and control its process and orders so as to make them conformable to law and justice x x x" The Court of Appeals did not just set aside its original decision without reviewing carefully the evidence of record. It is thus seen that it was only after the Court of Appeals had reviewed carefully the evidence that it concluded "that the lands herein involved are the community properties of the parties herein x x x."

2. ID.; ID.; ID.; ID.; ID.; FINDINGS OF FACT BY THE COURT OF APPEALS ARE IN GENERAL FINAL AND CONCLUSIVE.—

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This Court has held in numerous cases that findings of fact by the Court of Appeals are in general final and conclusive. There is no showing that the findings of fact of the Court of Appeals are not supported by substantial evidence.

DECISION

FERNANDEZ, *J.*:

This is a petition for *certiorari* to review the Resolution of the Court of Appeals promulgated on August 31, 1968 in CA-G.R. No. 31686-R, entitled "*Laureano Bernardo, et al., Plaintiffs-Appellants versus Agripina Bernardo, et al., Defendants-Appellees,*" the dispositive parts of which reads:

"In view of the foregoing, we are constrained to, as we hereby, reconsider our decision of January 11, 1967, and to reverse the decision appealed from. Accordingly, we declare the three parcels of land described in the complaint as the community properties of plaintiffs-appellants and defendants-appellees in the following proportion: 3/5 to the heirs of Ceferino, Bonifacio and Narciso, all surnamed Bernardo, and 2/5 to the heirs of Gregoria *alias* Yoyang and Justo Bernardo. No pronouncement as to costs.

IT IS SO ORDERED."[1]

In an amended complaint filed on November 3, 1959 with the Court of First Instance of Rizal by Leonardo Bernardo, Elena Bernardo, Cipriano Bernardo, Eladio de Leon *y* Bernardo and Santos Bernardo against Agripina Bernardo, Maria Hernandez, Aurelia Bernardo, Maxima Bernardo, Antonio Hernandez, Benito Hernandez, Fortunato Jose, and Ricardo, Francisco, Jimenez and Rita, all surnamed Bernardo, the plaintiffs demanded the partition and annulment of conveyance of two (2) parcels of rice land and one (1) parcel of residential lot located in San Dionisio, Parañaque, Rizal allegedly formerly

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[1] *Rollo*, p. 61. Resolution penned by Justice Julio Villamor and concurred in by Justices Carmelino G. Alvendia, Jesus Y. Perez, and Ruperto G. Martin with Justice Antonio Cañizares, *dissenting*.

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owned by the spouses Miguel Bernardo and Lorenza Garcia, both of whom are now deceased. Said spouses had six children, namely: Ceferino, Bonifacio, Narciso, Justo, Gregoria *alias* Yoyang and Petronila, all surnamed Bernardo.

The trial court rendered a decision dated June 29, 1962 dismissing the complaint as well as the counterclaim, with costs against the plaintiffs.[2]

The plaintiffs appealed to the Court of Appeals which at first affirmed the decision of the trial court.[3]

On motion for reconsideration filed on February 10, 1967 by the plaintiffs-appellants, a division of five (5) Justices set aside the decision promulgated on January 11, 1967 and declared the three (3) parcels of land described in the complaint as the community properties of the plaintiffs-appellants and plaintiffs-appellees in the proportion of 3/5 to the heirs of Ceferino, Bonifacio and Narciso, all surnamed Bernardo, and 2/5 to the heirs of Gregoria *alias* Yoyang and Justo Bernardo.[4]

The defendants-appellees Agripina Bernardo, Constantino de Leon and Rita Bernardo filed this petition for *certiorari* to review the resolution of the Court of Appeals setting aside the original decision raising the following allegedly legal questions:

"*First.* Whether the respondent Court of Appeals could validly and legally declare the properties in question to be COMMUNITY properties of the parties in this case, *after said Court itself found and declared that the shares and participations of respondent's predecessors in said properties had been CEDED to petitioner's father, Justo Bernardo, more than 70 years ago.*

"*Second.* Whether the private respondents may still legally and validly demand partition of the aforesaid properties, more than 70

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[2] Record on Appeal, p. 77; *Rollo*, p. 86.

[3] Annex "A", *Rollo*, pp. 28-40. Justice Francisco R. Capistrano wrote the decision, concurred in by Justice Antonio Cañizares and Justice Nicasio A. Yatco.

[4] *Rollo*, p. 61.

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years after then predecessors had *CEDED their shares therein to petitioners' father* who, since said cession and up to the time of his death in 1946, possessed the same in concept of owner, publicly, peacefully, and continuously to the exclusion of the private respondents and their predecessors, which possession was continued by petitioners after their father's demise up to the present.

"*Third.* Whether the private respondents may still validly and legally claim their predecessors' shares in the properties in question not only after the aforementioned CESSION, but also after petitioners' father claimed the properties exclusively for himself, declaring the same in his name alone to the exclusion of respondents and their predecessors since 1906 *with their full knowledge and convent*, on their bare oral declarations (more than a half of century later) that the said acts of petitioners' and their father was by their 'tolerance and consent.'

"*Fourth.* Whether the respondent Court may decide a case in a way *contrary to its own findings of facts*, and *on the basis of unfounded assumptions.*

"*Fifth.* Whether a decision unanimously promulgated by a division of three Justices of respondent Court of Appeals can be reconsidered and set aside by a resolution promulgated almost two years afterwards to the exclusion of two of said Justices (who had now then left the respondent Court), one of them the very ponente of the decision, over the dissent of the third member, without any legal or valid sound, and without a hearing afforded the petitioners."[5]

The alleged legal questions raised may be reduced to the basic issue of whether or not the Court of Appeals can change its original decision and make new findings of fact in resolving a motion for reconsideration.

One of the inherent powers of the Court of Appeals is "To amend and control its process and orders so as to make them conformable to law and justice x x x."[6]

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[5] *Rollo*, pp. 15-16.

[6] Paragraph (g), Section 5, Rule 135, Revised Rules of Court; *Magbanua vs. Hon. Conrado Barrios, etc., et al.*, 73 Phil. 318, 321.

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The Court of Appeals did not just set aside its original decision without reviewing carefully the evidence of record. The resolution appealed from is based on the following findings:

"On the whole, the testimony of the witnesses of the defendants is to the effect that the properties involved herein belonged exclusively to Justo Bernardo who was allegedly in possession thereof long before the war; and that upon his death the possession thereof passed on to Agripina and Hernandez. In support of this testimony, certain tax receipts were presented, (Exhibits 1 to 22, Agripina), as were the tax declarations of the properties in the name of her father Justo (Exhibits 25 and 26, Agripina). These were later superseded by tax declarations showing that the lands were declared in the name of Agripina for taxation purposes (Exhibits 27 and 82, Agripina). A deed of sale (Exhibit 20) dated November 25, 1957, covering two '*palayeros*' executed in her favor by her brothers was also presented. She also presented a document (Exhibit 30) dated May 31, 1897, purporting to be a quitclaim by the brothers Ceferino and Bonifacio and sisters Gregoria and Petronila, the last two being assisted by their respective husbands, in favor of their brother Justo over the following described properties:

> *'dos partidas de terrenos la primera partida una sementera palayera en el sitio de patel compresun del barrio del Quibiga de esta jurisdiccion que mide una extension superficial de una hectarea treinta y cuatro areas y treinta y cinco centiareas linda al Norte con Da. Margarita Garcia, al Oeste y Sur con D. Hermogenes Rodriguez y al Este con el Estero, Otra en el mismo sitio que mide noventa y dos areas y setenta centiareas, linda al Norte Oeste y Este con El Estero y all Sur con D. Maximo Rodriguez y ultimamente un solar enclavado en el barrio de S. Dionisio de esta compression que mide una extension superificial de cuatro cientos y treinta y dos metros cuadrados que linda por frente con la calle por la derecha de la entrada con el de Juan Marcos por la izquierda con el callejon y por la espalda con el de Don Fabian S. Buenaventura.'*

In consideration of this quitclaim, Justo Bernardo was supposed to assume all the obligations and debts of his father Miguel Bernardo.

"Ricardo Bernardo testified that the lands in question were declared for taxation purposes in the name of his father. He presented a Deed of Transfer (Exhibit 31) allegedly executed by his father in his favor

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in 1940. Rita Bernardo testified that the three parcels of land under litigation belonged to her uncle Justo who with his family occupied them, and that she did not receive any share in the harvest of the lands.

"In the deposition of Maria Hernandez, which was presented as evidence for the defendants Hernandez, it is stated that she had knowledge of the land in question because her father purchased them from the former owner, a certain Pablo Rodriguez, but that the deed of sale in favor of her father was lost. Tax Declaration No. 8061 (Exhibit 1-Hernandez) shows that the land was declared for taxation purposes in the name of Igmidio Hernandez while Tax Declaration Nos. 5709 and 5540 (Exhibit 20-Hernandez) show that the lands were declared in the name of their father. Exhibits 33-A to 33-E (Hernandez) are receipts for payments of taxes from 1902 to 1960 paid by her father during his lifetime and by her after her father's death. She claims that the properties involved in this case are about one-half hectare distant from the property which according to her she inherited from her father.

"We note that while defendants Rita, Agripina and Ricardo Bernardo claim that Justo Bernardo owned the properties because he worked on them and paid the taxes therefor, they were unable to trace the source of the title of their father. Their assertion that their father, Justo Bernardo, owns the lands exclusively is based on the fact that their father used to till and work on the land alone. However, they have not satisfactorily explained as to when their father acquired ownership of the lands and from whom they acquired the same. On the other hand, plaintiffs-appellants' evidence shows that these lands were originally owned by Miguel Bernardo, common grandfather of plaintiffs and defendants herein. Exhibit A, considered in relation with Exhibit 30 of the defendants (Quitclaim), shows that Miguel's application for possessory information title over the properties appearing in the Gazeta de Manila, issue of November 10, 1894, and the properties mentioned therein are the very same properties described in the Quitclaim (Exhibit 30). Examining Exhibit 30, we find that Ceferino, Bonifacio and Gregoria Bernardo waived their rights to the lands described therein in favor of their brother Justo Bernardo. All the defendants admit that the lands described in Exhibit 30 are the very same lands in litigation in this case. At the time Exhibit 30 was executed, Miguel Bernardo had already died.

"It appears that during his lifetime, Miguel Bernardo and his son, Justo, were defendants in a case filed by one Isidro Guerrero, in the

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Justice of the Peace Court of Parañaque, Rizal, wherein Miguel and Justo Bernardo were sentenced to pay ₱120.50, plus costs. Upon their failure to pay, the judgment creditor therein sought enforcement of the judgment by levying upon the properties of Miguel Bernardo and the properties so levied upon were two ricefields located at Kay-Biga and a residential lot located at San Dionisio. The boundaries of the properties were described in Exhibit 30. In order to avoid the execution, Ceferino, Bonifacio and Gregoria waived their rights to said property in favor of Justo Bernardo on condition that Justo would assume all the debts and liabilities of their father, Miguel Bernardo. If, as defendants claim, the land described in Exhibit 30 belong exclusively to Justo Bernardo, there was absolutely no reason why Ceferino, Bonifacio and Gregoria would waive any right appertaining to them over the said properties. By accepting the terms and conditions stated in the Quitclaim, Justo Bernardo expressly admitted that Ceferino, Bonifacio and Gregoria were his co-owners of the properties in question and, by the same token, he also expressly admitted that the right of co-ownership of Ceferino, Bonifacio and Gregoria was derived from Miguel Bernardo, their common father and original owner thereof. Plaintiffs Narciso and Petronila Bernardo, both also children of Miguel Bernardo, do not appear to have participated in the execution of Exhibit 30 and, therefore, as to them it produced no effect. Examining Exhibit 30 we are sufficiently convinced that the lands described therein were those owned originally by Miguel Bernardo and involved in this case.

"It now seems inevitable to conclude that the lands herein involved are the community properties of the parties herein in the proportion to which they are entitled under the law as grandchildren of Miguel Bernardo. The sale made by defendants Ricardo, Francisco, Aurelia, Maxima and Jimenez, all surnamed Bernardo, of the two parcels of land under Tax Declaration No. 553 covering the ricefield described as Parcel No. 1 in Paragraph 3 of the complaint, in favor of their sister Agripina Bernardo and the latter's husband, Constantino de Leon, is hereby declared null and void insofar as the portion sold exceeds that to which the vendors are entitled as co-owners."[7]

It is thus seen that it was only after the Court of Appeals had reviewed carefully the evidence that it concluded "that the lands herein involved are the community properties of the parties herein x x x."

[7] *Rollo*, pp. 56-61.

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This Court had held in numerous cases that findings of fact by the Court of Appeals are in general final and conclusive.[8]

There is no showing that the findings of fact of the Court of Appeals are not supported by substantial evidence.

WHEREFORE, the petition for *certiorari* is hereby denied and the resolution of the Court of Appeals promulgated on August 31, 1968 in CA-G.R. No. 31686-R appealed from is hereby AFFIRMED without pronouncement as to costs.

SO ORDERED.

Makasiar, Guerrero, and *Melencio-Herrera, JJ.*, concur.

Teehankee, J., (Chairman), in the result.

EN BANC

[G.R. No. L-30780. November 28, 1980]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **DALMACIO PAHIL *Y* PITALCO, *ET AL.*,** *defendants,* **DANTE LUCAS *Y* DIOKNO,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; EXTRAJUDICIAL CONFESSION; ADMISSIBILITY.— From the evidence, We find no error in the trial court admitting the extrajudicial confession, after rejecting appellant's totally uncorroborated testimony on his alleged maltreatment. The testimony of the Municipal Judge of Taal, Jun Solis, that when appellant was brought before him for the

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[8] *Vargas vs. Court of Appeals, et al.*, 91 SCRA 195, 202.