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THIRD DIVISION

[G.R. No. 55691. May 21, 1992]

ESPERANZA BORILLO, in her behalf and in behalf of her children, *petitioner, vs.* **HONORABLE COURT OF APPEALS and CATALINA BORILLO,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF APPELLATE COURT; RULE AND EXCEPTIONS. —** It is of course settled that the appellate court's findings of fact are binding and must be respected by this Court. There are, however, recognized exceptions thereto, among which are when the factual findings of the trial court and the appellate court are conflicting, when they are totally devoid of support in the record or are so glaringly erroneous as to constitute serious abuse of discretion.

2. **ID.; EVIDENCE; PRESENTATION OF EVIDENCE; HOW TO PROVE EXECUTION AND AUTHENTICITY THEREOF; RULE; NOT SATISFIED IN CASE AT BAR. —** Both Exhibits "3" and "4" are private documents. Hence, before they may be received in evidence, their due execution and authenticity must first be proven by the party presenting them. At the hearing of this case before the trial court, the controlling rule on this point was Section 21, Rule 132 of the Rules of Court which provided: "SECTION 21. *Private writing its execution and authenticity, how proved.* — Before any private writing may be received in evidence, its due execution and authenticity must be proved either: (a) By anyone who saw the writing executed;(b) By evidence of the genuineness of the handwriting of the maker; or (c) By a subscribing witness." Private respondent did not present anyone who actually saw the execution of Exhibits "3" and "4", witnessed Elpidio affix his signature on Exhibit "3" or make the cross over his written name in Exhibit "4". There are no subscribing witnesses. The due execution then of Exhibits "3" and "4", as the alleged deeds of sale transferring title over said parcels of land to

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private respondent, was not satisfactorily proven; thus, the same can not be received in evidence.

3. ID.; ID.; RULES ON ADMISSIBILITY; PAROL EVIDENCE; NOT ADMISSIBLE AS TO IDENTIFY THE PROPERTY WHERE THE DESCRIPTION THEREON IS SO VAGUE AS TO AMOUNT TO NO DESCRIPTION AT ALL; CASE AT BAR. — Even if We are to assume that Exhibits "3" and "4" are admissible in evidence, they still do not satisfactorily prove the transfers of titles over the subject parcels to the private respondent. As earlier pointed out, Exhibit "3" makes no mention of any property sold. Hence, it hardly qualifies as a deed of sale. It suffers from a patent and not just an intrinsic ambiguity. The respondent Court then committed an error by giving credence to the testimonies offered to cure such ambiguity. It disregarded the parol evidence rule then applicable, namely, Section 7, Rule 130 of the Rules of Court. Before parol evidence may be admitted in order to identify, explain or define the subject matter of a writing, it must first be shown that the writing itself already contains a description sufficient to serve as a foundation for the admission of such parol evidence; the evidence should also be consistent with the writing. Otherwise stated, in order to admit parol evidence to aid in the description of the subject matter of a deed or other writing, there must be a description that will serve as a foundation for such evidence; the writing must at least give some data from which the description may be found and made certain. Parol evidence is not admissible to identify the property where the description thereof is so vague as to amount to no description at all. In other words, parol evidence is not permitted to supply a description, but only to apply it.

4. ID.; ID.; FINDINGS OF FACT OF THE TRIAL COURT; RULE AND EXCEPTION. — It is a matter of judicial policy to accord the trial court's findings of facts with the highest respect and not to disturb the same on appeal unless there are strong and impelling reasons to do so. The reason for this is that trial courts have more opportunity and facilities to examine factual matters than appellate courts. They are in a better position to assess the credibility of witnesses, not only by the nature of their testimonies, but also by their demeanor on the stand.

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5. CIVIL LAW; PROPERTY; POSSESSION; TAX DECLARATION AND TAX RECEIPTS; MAY CONSTITUTE A *PRIMA FACIE* EVIDENCE THEREOF. — It is not also true, as was held by the respondent Court, that the conclusion of the trial court that Elpidio Borillo was in possession of the property in concept of owner until his death, is based solely on the tax declarations in his name. As shown earlier, the court considered the testimonies of the petitioner and one Clemente Llaneza whom the trial court described as "an uninterested witness." Thus: "xxx The fact that the lands were declared in the name of Elpidio Borillo for twenty-nine (29) years coupled by his actual possession during his lifetime until his death in 1971 as testified to by Esperanza Borillo and Clemente Llaneza who is an uninterested witness strongly outweighed the evidence for the defendants and convincingly indicate that the four parcels of land described in paragraph 4 of the complaint really belong to Elpidio Borillo. xxx" It is thus clear that the authorities cited by the respondent Court on the probative value of the tax declarations favor the herein petitioner and not the private respondent. For indeed, while tax declarations and tax receipts do not constitute evidence of ownership, they are *prima facie* evidence of possession. Accordingly, since Elpidio Borillo, during his lifetime, and then the petitioner, after his death, secured and were issued tax declarations for the parcels of land in question, and were in fact in possession thereof, the excuse offered by private respondent as to her failure to obtain the tax declarations deserves no consideration at all. The flimsiness or implausibility of the excuse becomes more apparent when We consider the findings of the trial court that private respondent has other properties declared in her name for taxation purposes and that neither she nor Marcos objected to the measurement by the assessors of the four (4) parcels for Elpidio Borillo.

6. ID.; PRESCRIPTION OF OWNERSHIP; ACQUISITIVE PRESCRIPTION; REQUISITES. — Acquisitive prescription of dominion requires that there be public, peaceful and uninterrupted possession in the concept of owner for a period of ten (10) years, in case of ordinary prescription, and thirty (30) years, in case of extraordinary prescription.

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APPEARANCES OF COUNSEL

Crisostomo F. Pariñas for petitioner.

D E C I S I O N

DAVIDE, JR., *J.*:

In this petition for review on *certiorari* under Rule 45 of the Rules of Court filed on 24 November 1980, petitioner urges this Court to review and reverse the decision[1] of the Court of Appeals (Third Division) in C.A.-G.R. No. 64536-R, promulgated on 3 September 1980, which reversed and set aside the 3 June 1978 decision of Branch II of the then Court of First Instance (now Regional Trial Court) of Abra in Civil Case No. 1043.

On 10 February 1977, petitioner, for herself and on behalf of her children, filed before the abovementioned trial court a complaint against private respondent and Marcos Borillo for the recovery of several parcels of land located at Bugbuguis, Quillat, Langiden, Abra particularly described in said complaint, under the first cause of action, as follows:

"(a) A parcel of land (Riceland unirr. and pastureland) xxx with an area of 1231 sq. m.; with assessed value in the sum of ₱40.00; under Tax Declaration No. 6319 in the name of Esperanza Borillo, *et al.*,

(b) A parcel of land (Riceland unirr.) xxx with an area of 980 sq. m.; with an assessed value in the sum of ₱40.00; under Tax Declaration No. 6320 in the name of Esperanza Borillo, *et al.*,

(c) A parcel of land (Riceland unirr.) xxx with an area of 698 sq. m., with assessed value in the sum of ₱20.00; under Tax Declaration No. 6321 in the name of Esperanza Borillo, *et al.*,

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[1] *Rollo*, 46-54.

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(d) A parcel of land (Cornland) xxx with an area of 570 sq. m.; with an assessed value of P20.00; under Tax Declaration No. 6322 in the name of Esperanza Borillo, *et al*."[2]

and one-fifth (1/5) undivided portion of two (2) parcels of land, also located in the same place as the above four (4) parcels, particularly described under the second cause of action, thus:

"(e) A parcel of land (Riceland unirr.) xxx with an area of 1440 sq. m.; with an assessed value of ₱60.00; under Tax Declaration No. 1745 in the name of Venancio Borillo.

(f) A parcel of land (Cornland) xxx with an area of 684 sq. m.; with an assessed value of ₱20.00; under Tax Declaration No. 0746 in the name of Venancio Borillo."[3]

The complaint was docketed as Civil Case No. 1043.

In the complaint, petitioner alleges that the abovementioned parcels (a), (b), (c) and (d) were originally owned by her late husband, Elpidio Borillo, with whom she had four (4) children, namely: Patricia, Melecio, Bonifacia and Quirino. Although said parcels of land were unregistered, they were declared in 1948 in the name of Elpidio under Tax Declaration Nos. 0731, 0732, 0733 and 0734 respectively.[4] Elpidio had been in peaceful, public, continuous and uninterrupted possession thereof in concept of owner even before his marriage to petitioner and until his death in 1970. After his death, petitioner continued to possess and cultivate said parcels of land and enjoy the fruits thereof until sometime in 1971-1972 when private respondent and Marcos Borillo, Elpidio's siblings, forcibly and unlawfully dispossessed her of the property. Despite repeated demands, Marcos and the private respondent refused to return the property to the petitioner and her children. In 1974, new Tax Declarations, namely Nos. 6319, 6320, 6321 and 6322[5] for parcels (a), (b), (c) and (d),

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[2] *Rollo,* 46-47.

[3] *Id.,* 47.

[4] Exhibits "A", "A-1", "A-2" and "A-3", respectively.

[5] Exhibits "B", and "B-1", "B-2" and "B-3", respectively.

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respectively, were issued in her name. Upon the other hand, parcels (e) and (f), also unregistered, were inherited by Elpidio, his brother Marcos and sisters Catalina, Aurelia and Rosita, from their father, Venancio Borillo. Elpidio's 1/5 pro-indiviso share therein was unlawfully taken by private respondent sometime in 1971; the latter refused to return it to petitioner and her children, who are Elpidio's heirs, despite repeated demands.

Petitioner then prays that judgment be rendered declaring her and her children owners of parcels (a), (b), (c) and (d), as well as the 1/5 pro-indiviso portion of parcels (e) and (f), and ordering the private respondent and Marcos Borillo to pay actual and moral damages plus costs.

In their Answer filed on 14 March 1977, private respondent claims that parcels (a), (c) and (d) were sold to her by her late brother Elpidio in 1935, while Marcos Borillo claims that parcel (b) was sold to him by Elpidio sometime in 1937, long before Elpidio's marriage to petitioner. Although they did not declare these parcels for taxation purposes in their respective names, they immediately took possession and occupied the same as owners thereof. Private respondent had been paying the realty taxes on parcels (a), (c) and (d) since 1948[6] and explains her failure to secure in her name tax declarations for said parcels during Elpidio's lifetime by alleging that she trusted him because he was her brother and he had assured her that she could transfer in her favor the title thereto anytime. After the Second World War, Elpidio and Rosita, another sibling, sold to her their respective undivided shares in parcels (e) and (f).

On 15 March 1977, private respondent alone filed an Amended Answer. On the other hand, on 5 April 1977, Patricia and Melencio Borillo filed a motion to withdraw as co-plaintiffs on the ground that they did not authorize their inclusion as such and that the private respondent is the true and lawful owner of the land in question.[7]

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[6] Exhibits "13-A" to "13-H", inclusive.

[7] *Rollo*, 37.

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At the trial, private respondent relied heavily on Exhibit "3", a private document purportedly showing that Elpidio sold to her all his property for ₱40.00, and Exhibit "4", which she claims to be a deed of sale of parcels (a), (c) and (d) allegedly executed by Elpidio Borillo in 1935. Upon the other hand, Marcos Borillo claimed that the deed of sale evidencing the sale to him of parcel (b) was lost during the Second World War. Both parties claim actual possession of the property. Private respondent and Marcos Borillo even claimed possession for more than thirty (30) years.

After trial on the merits, the lower court rendered on 3 June 1978 a decision in favor of herein petitioner, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring the plaintiffs as the true owners of parcels A, B, C and D described in par. 4 of the complaint and as co-owners of parcels E and F described in par. 6 of the complaint with Rosita Borillo, Aurelia Borillo and the defendants Catalina Borillo and Marcos Borillo. With costs against the defendants."[8]

The trial court arrived at this decision on the basis of the following findings of fact:

"The claim of ownership by the plaintiffs with respect to the four parcels of land described in par. 4 of the complaint is preponderantly established by Tax Declaration Nos. 731, 732, 733 and 734, Exhibits "A, A-1, A-2 and A-3" for the plaintiffs. These tax declarations covering the four parcels of land in question are tax declarations issued in 1948 and is (sic) in the name of Elpidio Borillo, husband of plaintiff Esperanza Borillo. Defendants never declared it (sic) in their name (sic) and no action or attempt whatsoever was made by the defendants to declare it (sic) in their name (sic) during the lifetime of Elpidio Borillo. It was only after the death of Elpidio Borillo and the institution of this action by the plaintiffs that defendants took action and strangely declared it (sic) in their names.

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[8] *Rollo*, 37.

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Obviously, the bulk of evidence for the plaintiffs are (sic) the tax declarations in the name of Elpidio Borillo which do not absolutely prove their ownership. But the circumstances obtaining in this case renders (sic) the tax declarations - Exhibits "A, A-1, R-2 and A-3", reliable and predominantly point that plaintiffs are owners of the four parcels of land described in par. 4 of the complaint as against the plaintiffs (sic). First, it will be noted that Exhibits A, A-1, A-2 and A-3 were prepared and issued long before the death of Elpidio Borillo. He was then a bachelor having married the plaintiff Esperanza Borillo in 1950. Defendant Catalina Borillo married long before the 2nd World War. Defendant Marcos Borillo likewise married before World War II. Defendants have properties declared in their names Marcos Borillo accompanied the Assessors who measured the four parcels of land according to him (sic). Despite the status of the parties and the Assessors having been accompanied by defendant Marcos Borillo, still the four parcels of land were declared in the name of Elpidio Borillo. It is unconceivable (sic) why it was (sic) declared in the name of Elpidio Borillo, if it does (sic) not belong to him. True, that tax declarations are not conclusive proof of ownership, but it cannot be gainsaid especially in rural areas like Langiden, Abra where lands are not surveyed and titled, that tax declarations are strong evidence of possession and ownership.

Secondly, the four parcels of land described in par. 4 of the complaint were declared in the name of Elpidio Borillo for 29 years and no action whatsoever was taken by the defendants to have the tax declarations (Exhibits A, A-1, A-2 and A-3) be (sic) cancelled and declared the lands (sic) in their names during the lifetime of the declared owner Elpidio Borillo and immediately after his death. It was only in 1977 after the filing of the complaint and after the plaintiffs caused the cancellation of Exhibits A, A-1, A-2 and A-3 and declared the lands in their names when defendants attempted to declare it (sic) also in their names. The unfathomable tolerance of the defendants of having the four (4) parcels of land be (sic) declared in the name of their deceased brother Elpidio Borillo in 1948 and remained (sic) in his name after his marriage with (sic) the plaintiff Esperanza Borillo in 1950 even (sic) after his death in 1971, is fatal and strongly negate their (sic) defendants claim of ownership. No person like the defendants will ever allow his/her property be (sic) declared in the name of another for twenty-nine (29) years. The fact that the lands were declared in the name of Elpidio Borillo

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for twenty-nine (29) years coupled by (sic) his actual possession during his lifetime until his death in 1971 as testified to by Esperanza Borillo and Clemente Llaneza who is an uninterested witness strongly outweighed the evidence for the defendants and convincingly indicate that the four parcels of land described in par. 4 of the complaint really belong to Elpidio Borillo. The claim of defendants that they are (sic) in actual possession before World War II up to the present is persuasively belied by Exhibits A, A-1, A-2 and A-3 and the testimony of Clemente Llaneza.

The claim of defendant Catalina Borillo that she purchased parcels A, C and D described in par. 4 of the complaint from her deceased brother Elpidio Borillo before World War II as evidence (sic) by Exhibits "3" and "4" appears unreliable and incredible. Exhibit "3" which is an acknowledgment receipt dated May 12, 1946 made no mention of what property has been sold. There is no evidence of any transfer of ownership. In fact there is nothing clear from the evidence as to what land of Elpidio Borillo is referred to in Exhibit "3". From the terms of Exhibit "3" and the alleged consideration thereof it thus becomes obvious that it is only a receipt evidencing a loan of ₱40.00.

Exhibit "4" (receipt) which is the main basis of the claim of ownership by defendant Catalina Borillo with respect to parcels A, C and D in par. 4 of the complaint appears unreliable and cannot prevail against the evidence for the plaintiffs. This Exhibit "4" for defendant Catalina Borillo is undated and unsigned. Defendant Catalina Borillo testified that she does not know the contents of Exhibit "4". Elpidio Borillo as shown by Exhibit "3" for defendant Catalina Borillo and Exhibits E and F for the plaintiffs knows how to write his name. Yet, Exhibit "4" was not signed by him. Aside from the patent defects of Exhibit "4" on its face which renders it unreliable, it will be noted that during the pre-trial proceedings, defendant Catalina Borillo presented Exhibit "4" to support her claim as alleged in her answer of having purchased parcels A, C and D from Elpidio Borillo in 1935. Clearly embodied, however, in Exhibit "4" are tax declarations Nos. 0732, 0731 and 0734 which are indeed tax declarations in 1948 in the name of Elpidio Borillo. Considering that Exhibit "4" is a document executed in 1935 according to the defendant Catalina Borillo, why are Tax Declarations Nos. 731, 732 and 734 which were issued only in 1948 incorporated? The inclusion of non-existent document (sic) in Exhibit "4" at the

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time of its alleged execution absolutely renders Exhibit "4" wholly unworthy and undeserving of any, credence."[9]

Private respondent appealed from the adverse decision to the respondent Court. Her co-defendant, Marcos Borillo, did not.

The appeal was docketed as C.A.-G.R. No. 64536-R. In her Appellant's Brief, private respondent assigns the following errors:

"I

THAT THE FACTS RELIED UPON IS (sic) NOT SUPPORTED BY EVIDENCE.

II

THAT THE DECISION IS NOT IN ACCORDANCE WITH LAW."

On 3 September 1980, the respondent Court promulgated its decision[10] reversing the decision of the trial court, thus:

"WHEREFORE, the judgment appealed from is hereby set aside and another judgment is hereby rendered declaring defendant Catalina Borillo as the owner of parcels (a), (c) and (d) and of the one-fifth portion of Elpidio Borillo in parcels (e) and (f); that defendant Marcos Borillo is the owner of parcel (b); with costs against the plaintiffs.

SO ORDERED."

The respondent Court made the following disquisitions to support its decision:

"We are convinced that the preponderance of the evidence tilt (sic) heavily in favor of defendant. Defendant established she has been in possession in the concept of owner of said three parcels of land (a), (c) and (d) since her purchase of the same long before the war and she cultivated the same in the concept of owner, paying the real estate taxes and thereafter declaring it in her name while Marcos Borillo acquired parcel (b) from Elpidio since 1938 of which he took possession in the concept of owner, and declared the same in his name paying the real estate taxes. No less than Melecio Borillo,

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[9] *Rollo,* 93-96.

[10] *Id.,* 46-54.

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son of plaintiff Esperanza, not only withdrew as party plaintiff with his sister Patricia but he even testified that he knew from the very mouth of his father Elpidio while he was still alive that he sold the property in question to defendant Catalina Borillo. It has also been shown that Elpidio Borillo sold his 1/5 portion of parcels (e) and (f) also before the war to defendant and she had been in continuous possession since then in the concept of owner.

Under Article 1137 of the Civil Code, such uninterrupted, adverse, open possession for thirty (30) years by the defendants regardless of their title or good faith upholds said defendants right over the property. (*Parcotillo vs. Parcotillo*, 12 SCRA 435, 440)

In finding for the plaintiffs the trial court relied on the tax declarations in the name of Elpidio as proof that plaintiffs are the owners of the questioned property since the property is untitled; that for 29 years no action was taken by defendants to declare the property in their name (sic) and it was only in 1977 after the filing of the complaint that defendants so declared the properties in their name (sic); that Exhibit 4 is unreliable being unsigned by Elpidio when there is evidence that he could sign his name; that Exhibit 3 did not mention the property sold; that Exhibit 4 was made in 1935 as alleged in the answer but surprisingly it embodied Tax Declarations 731, 732 and 734 which were issued only in 1948; and that the alleged sale of the right of Elpidio over parcels (e) and (f) are without receipts.

We disagree. Declaration of ownership for taxation purposes, or assessment declaration and tax receipts do not constitute evidence of ownership. They are only *prima facie* evidence of possession. (*Evangelista vs. Tabayuyong*, 7 Phil. 607; *Casimiro vs. Fernandez*, 9 Phil. 562) However, if the holder of a (sic) land presents a deed of conveyance in his favor from the former owner thereof to support his claim of ownership, the declaration of ownership and tax receipts relative to the property may be used to prove good faith on his part in occupying and possessing the same. (*Elumbaring vs. Elumbaring*, 12 Phil. 384) And while it is true that tax receipts do not prove titled (sic) to a land, nevertheless when considered with the actual possession of the property by the applicant, they constitute evidence of great weight in support of the claim of title of ownership by prescription. (*Viernes vs. Agpaoa*, 41 Phil. 286; Land Registration and Mortgages by Ventura, pp. 125-126).

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Plaintiffs admitted that defendants are in possession of the lands in question and the records show that even during the lifetime of Elpidio, the defendant had been paying the real property taxes of the property (Exhs. 1 to 1-I). The sale of parcels (a), (c) and (d) to defendant is evidenced by Exhibits 3 and 4. Although Exhibit 3 does not indicate the property subject of the sale, such deficiency can be attributed to the fact that this was a document executed between brother and sister without the assistance of a lawyer but testimonial evidence has been adduced that cured this defect. True it is that Exhibit 4 appears not to have been signed by Elpidio and he merely imprinted a cross over his name when it appears that he knew how to sign. However, defendants Catalina and Marcos Borillo categorically testified that Elpidio signed his name only by copying a sample. Hence, it is understandable if Elpidio did not sign Exhibit 4 for he must not have been furnished a guide to be copied. No evidence was adduced that Exhibit 4 was actually executed in 1935. What was established is that Elpidio sold said three parcels to defendant Catalina before the war. In confirmation of said sale, Exhibit 4 must have been executed on or before 1948 that is why it reflects the Tax Declarations of said property to be effective in the same year.

On the other hand, outside of the fact that the property remained to be declared in the name of Elpidio plaintiffs have not adduced any other evidence to buttress their claim of ownership. Plaintiff Esperanza paid for the real property taxes of the property only on June 22, 1977 after the complaint was filed in court (Exhibit C). It is not improbable that the reason why the properties remained in the name of Elpidio inspite of the fact that it has long been sold to defendants, is because this is a sale between brother and sister where mutual trust and confidence is to be expected. Indeed, during the lifetime of Elpidio he never questioned the acts of ownership exercised by the defendants over the property and even after his death in 1970, plaintiff Esperanza only remembered to assert their alleged right in 1976, when she attempted to talk to defendant who told her it was already sold to them and yet it was only in 1977 that the complaint was filed."

Petitioner took this present recourse asking Us to review the respondent Court's findings of facts and reverse its decision on the ground that the same is based solely on "speculation, surmise

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and conjecture," and that it committed a "misapprehension of facts."

After private respondent filed her Comment and the petitioner submitted a Reply, this Court gave due course to the petition[11] and required the petitioner to submit her Brief within thirty (30) days from notice,[12] which she complied with.[13] Private respondent subsequently filed her Brief.[14]

The petition is meritorious.

To begin with, the respondent Court committed a grave error in reversing the trial court's judgment insofar as it concerns defendant Marcos Borillo. As earlier stated, the latter did not appeal from the trial court's decision. As against him, and more particularly with respect to parcel (b), the decision had long become final and the respondent Court is without jurisdiction to review the same.[15] Otherwise stated, beyond the period to appeal, a judgment is no longer within the scope of the power of review of any court.[16] The appeal interposed by private respondent did not benefit Marcos Borillo because the former does not have anything to do with parcel (b) and the defense in respect thereto is exclusive to the latter.

The respondent Court likewise erred in reversing the trial court and ruling that private respondent is the owner of parcels (a), (c) and (d) and Elpidio Borillo's 1/5 pro-indiviso share in parcels (e) and (f).

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[11] *Rollo*, 97.

[12] *Rollo*, 107.

[13] *Id.*, 116, *et seq.*

[14] *Id.*, 162, *et seq.*

[15] *Layda vs. Legaspi*, 39 Phil. 83 [1918]; *Valdez vs. Ocumen*, 106 Phil. 929 [1960]; *Ramirez vs. Bleza*, 106 SCRA 187 [1981]; *Abad vs. Court of Appeals*, 179 SCRA 817 [1987].

[16] *Pan Realty Corp. vs. Court of Appeals*, 167 SCRA 564 [1988]; *Rizo vs. Solano*, 197 SCRA 711 [1991].

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It is of course settled that the appellate court's findings of fact are binding and must be respected by this Court.[17] There are, however, recognized exceptions thereto,[18] among which are when the factual findings of the trial court and the appellate court are conflicting,[19] when they are totally devoid of support in the record or are so glaringly erroneous as to constitute serious abuse of discretion.[20]

These exceptions obtain in the present case.

The fact that parcels (a), (c) and (d) were originally owned by Elpidio Borillo is not disputed by private respondent. In fact, she claims to have derived her title over the same from the former through a sale in 1935. Thus, the question to be resolved is whether or not Elpidio Borillo did in fact sell the said parcels of land to the private respondent.

To substantiate her claim, private respondent presented two (2) documents, Exhibits "3" and "4". The trial court in its judgment described Exhibit "3", dated 12 May 1946, as a mere acknowledgment receipt of a loan of ₱40.00 and not a sale for it does not mention any property sold and is not acknowledged before a notary public. It then concluded that said instrument is a mere receipt evidencing a loan. On the other hand, Exhibit "4" is an undated and unsigned document written in lead pencil on simple grade paper. The instrument has no witnesses, is not acknowledged before a notary public and has a mere cross over the written name of Elpidio Borillo. It was duly proven that Elpidio knew how to write and sign his name. Although

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[17] *Chan vs. Court of Appeals*, 33 SCRA 787 [1970].

[18] *Ramos vs. Pepsi Cola Bottling Co. of the P.I.*, 19 SCRA 289 [1967]; *Lim Yhi Luya vs. Court of Appeals*, 99 SCRA 668 [1980]; *Remalante vs. Tibe*, 158 SCRA 138 [1988]; *Medina vs. Asistio, Jr.*, 191 SCRA 218 [1990].

[19] *Garcia vs. Court of Appeals*, 33 SCRA 622 [1970]; *Metro Port Service, Inc. vs. Court of Appeals*, 131 SCRA 365 [1984]; *Rañeses vs. IAC*, 187 SCRA 397 [1990]; *Bustamante vs. Court of Appeals*, 193 SCRA 603 [1991]; *Crisostomo vs. Court of Appeals*, 197 SCRA 833 [1991].

[20] *Santa Ana, Jr. vs. Hernandez*, 18 SCRA 973 [1966].

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Exhibit "4" was purportedly executed in 1935, the same mentions Tax Declaration Nos. 0731, 0732, 0733 and 0734 issued in 1948 in the name of Elpidio Borillo. Private respondent herself testified that she had no knowledge of the contents of said instrument. The trial court ruled Exhibit "4" as "wholly unworthy and undeserving of any credence."

In reversing the foregoing findings, the respondent Court tried to justify the deficiencies and discrepancies in Exhibit "3" by saying that the absence of specifications as to what property was sold is understandable because the transaction was between brother and sister. It added that this defect was cured by testimonial evidence. It made no attempt, however, to explain the variance in the date of the alleged sale (1935) and the date of the instrument (1946).

As to Exhibit "4", the respondent Court accepted private respondent's explanation for the absence of the signature of Elpidio Borillo on the purported deed of sale saying that contrary to petitioner's assertion, Elpidio did not really know how to write his name. Private respondent and Marcos Borillo testified that Elpidio's signature appeared on his voter's registration record and voter's ID card[21] only because he was given a sample to copy. They declared that unlike those occasions, at the time of the sale, Elpidio was not given any sample to copy; this explains why he just printed a cross over his name. As to why it mentions tax declarations issued in 1948, although it is claimed to have been executed in 1935, the respondent Court theorizes and speculates that:

> "xxx In confirmation of said sale, Exhibit 4 must have been executed on or before 1943 that is why it reflects the Tax Declarations of said property to be effective in the same year."[22]

It is thus clear that what was originally submitted by private respondent as the original deed of sale was later accepted by the respondent Court as a deed of confirmation of sale.

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[21] Exhibits "E" and "F", respectively.

[22] *Rollo,* 53.

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Both Exhibits "3" and "4" are private documents. Hence, before they may be received in evidence, their due execution and authenticity must first be proven by the party presenting them.[23] At the hearing of this case before the trial court, the controlling rule on this point was Section 21, Rule 132 of the Rules of Court which provided:

"SECTION 21. *Private writing its execution and authenticity, how proved*. — Before any private writing may be received in evidence, its due execution and authenticity must be proved either:

(a) By anyone who saw the writing executed;

(b) By evidence of the genuineness of the handwriting of the maker; or

(c) By a subscribing witness."[24]

Private respondent did not present anyone who actually saw the execution of Exhibits "3" and "4", witnessed Elpidio affix his signature on Exhibit "3" or make the cross over his written name in Exhibit "4". There are no subscribing witnesses. The due execution then of Exhibits "3" and "4", as the alleged deeds of sale transferring title over said parcels of land to private

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[23] Section 21, now Section 20, Rule 132, Rules of Court; *Bunag vs. Court of Appeals*, 158 SCRA 299 [1988]; citing *Nolan vs. Salas*, 7 Phil. 1 [1906]; *U.S. vs. Evangelista*, 29 Phil. 215 [1915]; *Antillon vs. Barcelon*, 37 Phil. 148 [1917].

[24] This was subsequently amended and renumbered as Section 20. As amended, it now reads:

"SECTION 20. *Proof of private document*. — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

(a) By anyone who saw the document executed or written; or

(b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be."

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respondent, was not satisfactorily proven; thus, the same can not be received in evidence.

Even if We are to assume that Exhibits "3" and "4" are admissible in evidence, they still do not satisfactorily prove the transfers of titles over the subject parcels to the private respondent. As earlier pointed out, Exhibit "3" makes no mention of any property sold. Hence, it hardly qualifies as a deed of sale. It suffers from a patent and not just an intrinsic ambiguity. The respondent Court then committed an error by giving credence to the testimonies offered to cure such ambiguity. It disregarded the parol evidence rule then applicable, namely, Section 7, Rule 130 of the Rules of Court, which provided as follows:

"SECTION 7. *Evidence of written agreements*. — When the terms of an agreement have been reduced to writing, it is to be considered as containing all such terms, and, therefore, there can. be, between the parties and their successors in interest, no evidence of the terms of the agreement other than the contents of the writing, except in the following cases:

(a) Where a mistake or imperfection of the writing, or its failure to express the true intent and agreement of the parties, or the validity of the agreement is put in issue by the pleadings;

(b) When there is an intrinsic ambiguity in the writing.

The term 'agreement' includes wills."[25]

Before parol evidence may be admitted in order to identify, explain or define the subject matter of a writing, it must first be shown that the writing itself already contains a description sufficient to serve as a foundation for the admission of such parol evidence; the evidence should also be consistent with the writing. Otherwise stated, in order to admit parol evidence to aid in the description of the subject matter of a deed or other writing, there must be a description that will serve as a foundation for such evidence; the writing must at least give some data from

[25] This was amended and renumbered as Section 29, Rule 130.

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which the description may be found and made certain. Parol evidence is not admissible to identify the property where the description thereof is so vague as to amount to no description at all. In other words, parol evidence is not permitted to supply a description, but only to apply it.[26]

In his Commentary on the Rules of Court,[27] former Chief Justice Manuel V. Moran explains the rule in the event of patent ambiguity, as is the case in Exhibit "3":

"xxx The rule is that 'if the words of a document are so defective or ambiguous as to be unmeaning, no evidence can be given to show what the author of the document intended to say.' (Steph, Evidence, Art. 91) The reason for the rule, in the language of Mr. Justice Story, is that 'if the language be too doubtful for any settled construction, by the admission of parol evidence you create and do not merely construe the contract. You attempt to do that for the party which he has not chosen to do for himself; and the law very properly denies such an authority to courts of Justice.' (*Peisch v. Dickson*, Fed. Cas. No. 10, 911, 1 Mason, 9.) As Lord Bacon said, *Ambiguitas patens* cannot be holpen by averment.' (Bacon, Max., 23) A case of patent ambiguity is that of a deed wherein 'a parcel of land' without description is donated. The donation is void. The uncertainty cannot be explained by parol evidence. (Wigmore on Evidence, 2d. ed., pp. 414.) The following appears to be the most accurate and most comprehensive statement of the rule regarding patent ambiguity: 'In other words and more generally, if the court, placing itself in the situation in which the testator or contracting party stood at the time of executing the instrument, and with a full understanding of the force and import of the words, cannot ascertain his meaning and intention from the language of the instrument, then it is a case of incurable, hopeless uncertainty and the instrument is, therefore, so far inoperative and void.' (*Palmer v. Albee*, 50 Ia., 429, 432, quoting 1 Greenleaf on Evidence, par. 300.)"

As to Exhibit "4", We agree with the trial court that it could not have been prepared in 1935, as contended by private respondent, because it makes reference to Tax Declarations

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[26] 32A C.J.S. 575-580.

[27] Vol. 5, 1980 ed., 121-122.

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issued in 1948, thirteen (13) years later. Common sense and logic reject such contention. Unfortunately, the respondent Court belabored the explanation that Exhibit "4" must have been executed on or before 1948 to confirm the prior sale. This is unacceptable as it is purely conjectural. Absent any evidence that it was signed by Elpidio Borillo, it is not difficult to conclude that this document does not proceed from any legitimate source. It is one which could easily be fabricated. The trial court did not then err when it considered Exhibit "4" as "wholly unworthy and undeserving of any credence."

It is not also true, as was held by the respondent Court, that the conclusion of the trial court that Elpidio Borillo was in possession of the property in concept of owner until his death, is based solely on the tax declarations in his name. As shown earlier, the court considered the testimonies of the petitioner and one Clemente Llaneza whom the trial court described as "an uninterested witness." Thus:

> "xxx The fact that the lands were declared in the name of Elpidio Borillo for twenty-nine (29) years coupled by his actual possession during his lifetime until his death in 1971 as testified to by Esperanza Borillo and Clemente Llaneza who is an uninterested witness strongly outweighed the evidence for the defendants and convincingly indicate that the four parcels of land described in paragraph 4 of the complaint really belong to Elpidio Borillo xxx."

It is thus clear that the authorities cited by the respondent Court on the probative value of the tax declarations favor the herein petitioner and not the private respondent. For indeed, while tax declarations and tax receipts do not constitute evidence of ownership, they are *prima facie* evidence of possession. Accordingly, since Elpidio Borillo, during his lifetime, and then the petitioner, after his death, secured and were issued tax declarations for the parcels of land in question, and were in fact in possession thereof, the excuse offered by private respondent as to her failure to obtain the tax declarations deserves no consideration at all. The flimsiness or implausibility of the excuse becomes more apparent when We consider the findings of the

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trial court that private respondent has other properties declared in her name for taxation purposes and that neither she nor Marcos objected to the measurement by the assessors of the four (4) parcels for Elpidio Borillo.

The conclusion then is inevitable that the late Elpidio Borillo did not sell and alienate parcels (a), (c) and (d) to private respondent.

As to parcels (e) and (f), private respondent presented no deed of sale in her favor.

Private respondent can not likewise seek refuge under a claim of ownership by virtue of acquisitive prescription.

Acquisitive prescription of dominion requires that there be public, peaceful and uninterrupted possession in the concept of owner[28] for a period of ten (10) years, in case of ordinary prescription,[29] and thirty (30) years, in case of extraordinary prescription.[30]

After reviewing the evidence presented before it, the trial court concluded that Elpidio Borillo had actual, peaceful and continuous possession of the subject parcels of land during his lifetime and until his death in 1970. The respondent Court reversed this finding and ruled that it was private respondent who had the possession since her purchase thereof in 1935.

It is a matter of judicial policy to accord the trial court's findings of facts with the highest respect and not to disturb the same on appeal unless there are strong and impelling reasons to do so.[31] The reason for this is that trial courts have more opportunity and facilities to examine factual matters than appellate

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[28] Article 1118, Civil Code.

[29] Article 1134, Civil Code.

[30] Article 1137, *Id*.

[31] *Ayco vs. Fernandez*, 195 SCRA 328 [1991]; *People vs. Laureta*, 159 SCRA 256 [1988].

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courts.[32] They are in a better position to assess the credibility of witnesses, not only by the nature of their testimonies, but also by their demeanor on the stand.[33]

In *Shauf vs. Court of Appeals*,[34] We ruled:

"Elementary is the rule that the conclusions and findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons. (*Vda. de Alberto. et al. vs. CA, et al.*, 173 SCRA 436 [1989]) Absent any substantial proof, therefore, that the trial court's decision was grounded entirely on speculations, surmises or conjectures, the same must be accorded full consideration and respect. This should be so because the trial court is, after all, in a much better position to observe and correctly appreciate the respective parties' evidence as they were presented. (*Matabuena vs. CA, et al.*, 173 SCRA 170 [1989]"

We find no impelling, compelling or cogent reason to overturn the findings of fact of the trial court.

WHEREFORE, the instant petition is **GRANTED.** The challenged decision of the Court of Appeals is hereby **REVERSED** and **SET ASIDE** and the judgment of the Regional Trial Court of Abra dated 3 June 1978 in Civil Case No. 1043 is hereby **AFFIRMED** and **REINSTATED.**

SO ORDERED.

Gutierrez, Jr. (Chairman), Feliciano, Bidin, and *Romero, JJ.*, concur.

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[32] *Pe vs. IAC*, 195 SCRA 137 [1991].

[33] *People vs. Solis*, 195 SCRA 405 [1991]; *People vs. Francisco*, 182 SCRA 305 [1990]; *People vs. Canamo*, 138 SCRA 141 [1985].

[34] 191 SCRA 713 [1990].