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SECOND DIVISION

[G.R. No. 123924. December 11, 2003]

HEIRS OF MIGUEL FRANCO, namely: MODESTA, LEONIDES ROMULA, EMMA, JOHNNY, RAMON, BERNARDO, PACITA, all surnamed FRANCO, *petitioners, vs.* **COURT OF APPEALS and HEIRS OF FAUSTINA CABADING, represented by VICTORIA CABADING,** *respondents.*

SYNOPSIS

Quintin Franco was a patentee of a parcel of public land located at Lianib, Dipolog, Zamboanga Del Norte, containing an area of 70.6381 hectares. Original Certificate of Title No. P-436 covering the subject property was issued in Quintin's name. Quintin died intestate. His brother, Miguel Franco, filed a Petition for Issuance of Letters of Administration before the then Court of First Instance of Zamboanga del Norte, praying that he be appointed as administrator of Quintin's estate. The petition was opposed by Faustina Franco *Vda. De* Cabading, sister of decedent Quintin, on the ground that Miguel was unfit to be the Administrator. The intestate court ruled that since Miguel was claiming ownership over half of the subject property, his conflicting interest rendered him incapable of rendering a true and faithful account of the estate. Miguel filed a motion for reconsideration wherein he alleged for the first time that one half of the subject property was transferred to him by virtue of a document entitled "General Power of Administration," executed by Quintin in 1967. It was also discovered that on the basis of the said document, through a petition filed before the Court of First Instance of Dipolog, Miguel was able to obtain Transfer Certificate of Title No. T-20203, covering half of the subject property. Consequently, private respondents filed a complaint seeking the cancellation of TCT No. T-20203 in the name of Miguel, who died in the meantime. The trial court found that the "General Power of Administration" evinced an existing trust relation between Quintin and Miguel, with Quintin as the signatory thereof acknowledging that he was holding half of the property titled in his name for Miguel. The trial court

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concluded that a trust had been created by force of law in favor of Miguel to the extent of one-half of the property. On appeal, the Court of Appeals reversed the trial court's decision, ordered the cancellation of TCT No. T-20203 and directed the issuance of a new transfer certificate of title in the name of the heirs of Quintin. The appellate court concluded that Miguel had succeeded in registering the property through fraud, surreptitious conduct and bad faith. Hence, the present petition.

The Supreme Court affirmed the decision of the Court of Appeals. While Miguel explicitly declared that the subject property belonged to his brother Quintin, at the same time he was remarkably silent about his claim that he acquired one-half thereof during the lifetime of Quintin. He asserted his claim to the subject property four years after he stated under oath in a court pleading that it belonged in its entirety to his brother. The Court considered Miguel's statement under oath and the accompanying silence as a declaration against interest and a judicial admission combined. A declaration against interest, is the best evidence which affords the greatest certainty of the facts in dispute. In the same vein, a judicial admission binds the person who makes the same, absent any showing that it was made through palpable mistake and no amount of rationalization can offset it. There was no showing of palpable mistake on the part of Miguel when he made the admission. The Court also found no document in existence whereby the ownership of any portion of the subject property was conveyed by Quintin to Miguel. The "General Power of Administration" does not contain any language that operates as a conveyance of the subject property.

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; JUDICIAL ADMISSION AND ADMISSIONS AGAINST INTEREST; DECLARATION OF PETITIONERS' PREDECESSOR THAT THE PROPERTY BELONGED TO HIS BROTHER AND AT THE SAME TIME WAS REMARKABLY SILENT ABOUT HIS CLAIM MAY BE APPRECIATED AS A DECLARATION AGAINST INTEREST AND A JUDICIAL ADMISSION COMBINED.— While he explicitly declared that the subject property belonged to Quintin, at the same time he was remarkably silent about his claim that

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he acquired one-half thereof during the lifetime of Quintin. He asserted his claim to the subject property quite belatedly, *i.e.*, four years after he stated under oath and in a court pleading that it belonged in its entirety to his brother. Thus, the statement and the accompanying silence may be appreciated in more than one context. It is a declaration against interest and a judicial admission combined. A declaration against interest is the best evidence which affords the greatest certainty of the facts in dispute. In the same vein, a judicial admission binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it. In the case at bar, there is no showing of palpable mistake on the part of Miguel when he made the admission. In his *Motion to Admit Amended Petition*, he merely alleged inadvertence in failing to state his claim of co-ownership. Yet no evidence was adduced to prove the alleged inadvertence. And even assuming there was indeed such a mistake, Miguel had ample opportunity to make the rectification in the initial stages of the intestate proceedings.

2. ID.; ID.; ID.; FROM THE SUBSTANTIVE AND PROCEDURAL STANDPOINTS ALIKE, THE STATEMENT BEING BOTH A DECLARATION AGAINST INTEREST AND JUDICIAL ADMISSION SHOULD BE ACCORDED THE FULL EVIDENTIARY VALUE IT DESERVES.— Bearing on the weight of the combined declaration against interest and judicial admission is the assumption, arising from his duty as special administrator of the estate of Quintin, that he had full knowledge of the status and extent of the property holdings of the decedent. The following observation of the Court of Appeals is worth citing: "This tolerant silence militates against Miguel Franco's claim of 'co-ownership.' Juxtaposed with his previous judicial admission of Quintin Franco's absolute ownership of Lot No. 5172, it is not difficult to see that the act of Miguel Franco in registering one-half of the property in his name was an insidious and surreptitious, if not belated, maneuver to deprive the legal heirs of Quintin Franco of their lawful share and interest in the property. As a matter of fact, Miguel Franco may well be charged with laches." The statement under oath of Miguel was made in the intestate proceedings. It was presented in evidence and utilized as such in Civil Case No. 3847. Thus from the substantive and procedural standpoints alike, the statement being

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both a declaration against interest and judicial admission should be accorded the full evidentiary value it deserves.

3. **ID.; ID.; ID.; INACTION BY PETITIONER'S PREDECESSOR UNMISTAKABLY BOLSTERS THE UNSHAKEABLE WEIGHT THAT SHOULD BE ACCORDED THE STATEMENT AS A DECLARATION AGAINST INTEREST AND A JUDICIAL ADMISSION.**— The intestate court in its *Order* dated 27 August 1973 declared that Quintin was the absolute owner of the property and accordingly denied Miguel's claim of ownership over half the subject property. The *Order* was apparently issued for the purpose of determining which properties should be included for the inventory of the estate of Miguel. While the intestate court does not have the authority to rule with finality on questions of ownership over the property of the decedent, it is not precluded from making a provisional determination over such questions for purposes relevant to the settlement of the estate, such as ruling whether or not to include properties in the inventory of the estate. And yet, at no time did Miguel file a motion for the reconsideration of the 27 August 1973 *Order* of the intestate court which denied Miguel's claim of ownership. It was the 1 September 1973 *Order* of the intestate court, by virtue of which Miguel was removed as special administrator, that he contested. While the 27 August 1973 *Order* is a provisional determination of ownership over the subject property, yet conformably to ordinary experience any prudent claimant is expected to dispute such an order which rejects his claim of ownership. Miguel's inaction unmistakably bolsters the unshakeable weight that should be accorded the statement as a declaration against interest and a judicial admission.

4. **CIVIL LAW; LAND REGISTRATION; RESORT TO THE PROCEDURE LAID DOWN UNDER SECTION 112 OF THE OLD LAND REGISTRATION ACT WOULD BE AVAILABLE ONLY IF THERE IS UNANIMITY AMONG THE PARTIES, OR IF THERE IS NO ADVERSE CLAIM OR SERIOUS OBJECTION ON THE PART OF ANY PARTY IN INTEREST.**— It is clear from reading Section 112 of the old Land Registration Act that the same may be utilized only under limited circumstances. Proceedings under Section 112 are summary in nature, contemplating corrections or insertions of mistakes which are only clerical but certainly not controversial issues. More importantly, resort to the procedure laid down

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in Section 112 would be available only if there is a "unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest." Such unanimity among the parties has been held to mean "the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section." Clearly, there was no such unanimity among the parties in interest, namely, all the heirs of Quintin. The surreptitious registration by Miguel of the property had worked to the prejudice of the other heirs of Quintin.

5. **ID.; ID.; THE "GENERAL POWER OF ADMINISTRATION" DOCUMENT DOES NOT SUFFICE TO PROVE OWNERSHIP OF ANY PORTION OF THE SUBJECT PROPERTY; THE DOCUMENT DOES NOT CONTAIN ANY LANGUAGE THAT OPERATES AS A CONVEYANCE OF THE SUBJECT PROPERTY.**— There is no document in existence whereby the ownership of any portion of the subject property was conveyed by Quintin to Miguel. The "General Power of Administration" does not suffice in that regard. Indeed, it does not contain any language that operates as a conveyance of the subject property. The RTC ruling, from which petitioners draw heavy support, maintained that Miguel owned half of the property because the document entitled "General Power of Administration" states that it "admits of an existing trust relation between the signatory Quintin Franco on the one hand, and Miguel Franco on the other hand." The RTC cited Article 1452 of the Civil Code. Article 1452 presupposes the concurrence of two requisites before a trust can be created, namely: that two or more persons agree to purchase a property, and that they consent that one should take the title in his name for everyone's benefit. The aforementioned provision is not applicable in this case, as it clearly speaks of an instance when the property is acquired through a joint purchase by two or more persons. That circumstance is not present in this case since the subject property was acquired through Quintin's application for a patent. There is no proof that Miguel had joined Quintin in acquiring the property. Lastly, as noted by the Court of Appeals, while tax receipts and declarations and receipts and declarations of ownership for taxation purposes are not, in themselves, incontrovertible evidence of ownership, they constitute at least proof that the holder has a claim of title over the property. The

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subject property had been consistently declared for taxation purposes in the name of Quintin, and this fact taken in conjunction with the other circumstances inexorably lead to the conclusion that Miguel's claim of ownership cannot be sustained. Thus, even without having to inquire into the authenticity and due execution of the "General Power of Administration," it is safe to conclude that Miguel did not have any ownership rights over any portion of the subject property and that the registration of half of the property in his name was baseless and afflicted with fraud.

APPEARANCES OF COUNSEL

Paulino G. Gudmalin for petitioners.
Mejorada Mejorada & Mejorada Law Firm for respondents.

D E C I S I O N

TINGA, *J.*:

Before us is a *Petition for Review on Certiorari* seeking to overturn a *Decision* rendered by the Fourteenth Division of the Court of Appeals[1] on 6 October 1995 in CA G.R. CV No. 37609. The Court of Appeals reversed the decision of the Regional Trial Court of Dipolog City, Branch 7[2] ("RTC") and ordered the cancellation of TCT No. T-20203 issued in the name of Miguel Franco (whose heirs are the petitioners herein), and the issuance of a new transfer certificate of title for Lot No. 5172-B, PSD-64806, in favor of the heirs of Quintin Franco[3] ("Quintin"). Quintin was the patentee[4] of a parcel of public land, surveyed as Lot No. 5172, Cad. 85 Ext. ("subject property"), located at Lianib, Dipolog, Zamboanga del Norte, and containing

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[1] The Decision in CA G.R. CV No. 37609 was penned by Justice O. Agcaoili, concurred in by Justices C. Francisco and E. Verzola.

[2] The RTC Decision was rendered by Judge J. Angeles.

[3] *Rollo*, p. 9.

[4] Under the provisions of Chapter V of the Public Land Act (CA No. 141, as amended). See *Rollo*, p. 23.

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an area of 70.6381 hectares. Being the patentee, Original Certificate of Title No. P-436 covering subject property was issued in Quintin's name on 9 July 1954.

Quintin died intestate on 8 December 1967. His brother, Miguel Franco ("Miguel"), filed a *Petition for Issuance of Letters of Administration* on 17 October 1968, before the Court of First Instance of Zamboanga del Norte ("intestate court"), praying that he be appointed as administrator of Quintin's estate. This *Petition*, docketed as Sp. Proc. No. R-531, was opposed by Faustina Franco *Vda. De* Cabading ("Faustina"), the sister of the decedent, on the ground that Miguel was unfit to be the administrator.[5] She prayed for her own appointment as administratrix instead of Miguel. Upon motion of Miguel, the intestate court appointed him as special administrator of the estate on 3 December 1969.[6] However, on 23 July 1971, Faustina, then apparently joined by the other heirs of Quintin except Miguel,[7] moved for the latter's removal as special administrator.

On 27 August 1973, the intestate court issued an *Order*[8] declaring *inter alia* that, based on the evidence, Quintin was the absolute owner of the subject property. This finding was subsequently used by the intestate court as one of the grounds for granting the motion to remove Miguel as special administrator, per the *Order* dated 1 September 1973. In the latter *Order*, the intestate court said that since Miguel was claiming ownership over half of the subject property, his conflicting interest rendered him incapable of rendering a true and faithful account of the estate.[9]

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[5] Records, p. 166.

[6] *Id.* at p. 173.

[7] *Id.* at p. 24. The Records do not indicate at which stage of the proceedings the other heirs joined Faustina Franco in her opposition.

[8] *Id.* at p. 188.

[9] *Id.* at p. 190.

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Miguel filed a *Motion for Reconsideration*[10] of the 1 September 1973 Order, wherein he alleged for the first time that one-half of the subject property was transferred to him by virtue of a document entitled "General Power of Administration" and executed by Quintin in 1967. It was also discovered that on the basis of this "General Power of Administration" Miguel had filed a *Petition* dated 2 January 1972 before Branch 1 of the Dipolog Court of First Instance, docketed as Misc. Sp. No. 2993,[11] seeking the cancellation of OCT No. P-436. This *Petition* was granted in the *Order*[12] of 6 January 1973, wherein it was directed that the new transfer certificates of title be issued, one in the name of the heirs of Quintin and the other name of Miguel. Thus, Miguel was able to obtain *Transfer Certificate of Title No.* (TCT) T-20203, covering half of the subject property, on 13 February 1973.[13]

The other heirs asked the intestate court to cancel TCT No. T-20203 shortly after learning about it through a *Motion for Reconsideration* filed in the estate proceedings. On 4 May 1977, the intestate court issued an order[14] cancelling TCT No. T-20203 issued in the name of Miguel, on the ground that Miguel's acquisition of the title was fraudulent. The Court of Appeals reversed the *Order* in its *Decision*[15] of 29 February 1984. According to the appellate court, the intestate court had no jurisdiction to settle questions of property ownership.[16] This

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[10] *Id.* at p. 192.

[11] This particular proceeding was apparently misdocketed. Considering that an original certificate of title had already been issued, any petition to reopen the same, or amend the decree of registration should have been docketed as G.L.R.O. Rec. No. or L.R.C. Rec. No. in accordance with Sec. 112, Act No. 496.

[12] Records, p. 207.

[13] *Id.* at p. 208.

[14] *Id.* at p. 234.

[15] *Id.* at p. 273.

[16] *Id.* at p. 257.

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Court, in a *Resolution*[17] dated 1 October 1984, affirmed the ruling of the Court of Appeals.

Consequently, private respondents as plaintiffs, filed before the RTC a complaint, docketed as Civil Case No. 3847, seeking the cancellation of TCT No. T-20203 in the name of Miguel, who had died in the meantime.[18] After trial, the RTC rendered a decision dismissing the complaint.[19] The RTC found that the "General Power of Administration" evinced an existing trust relation between Quintin and his brother Miguel, with Quintin as the signatory thereof acknowledging that he was holding half of the property titled in his name in trust for Miguel. Applying Article 1452[20] of the Civil Code, the RTC concluded that a trust had been created by force of law in favor of Miguel to the extent of one-half of the property.

On appeal, the Court of Appeals rendered on 6 October 1995 the challenged *Decision*[21] reversing the RTC decision, ordering the cancellation of TCT No. T-20203 and directing the issuance of a new transfer certificate of title in the name of the Heirs of Quintin. The appellate court concluded that Miguel had succeeded in registering the property through fraud, surreptitious conduct, and bad faith. As basis, it recited the following circumstances:

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[17] *Id.* at p. 274.

[18] While Civil Case No. 3847 was initiated by all of the heirs of Quintin Franco save Miguel Franco, it appears that only the heirs of Faustina Franco *Vda. De* Cabading actively pursued litigation of the case. On 19 July 1990, the RTC issued an order declaring as non-suited the plaintiff-heirs of Maria Franco Agdinaoy, Juan Franco, and Eudofia Franco Agdinaoy, respectively, while archived the case with respect to Julia Franco Mata, who had died. *Id.* at p. 132.

[19] *Id.* at p. 41.

[20] "If two or more persons agree to purchase property and by common consent the legal title is taken in the name of one of them for the benefit of all, a trust is created by force of law in favor of the others in proportion to the interest of each." Art. 1452, New Civil Code.

[21] Records, p. 23.

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1. In his petition for the issuance of letters of administration, Miguel admitted that the subject property in its entirety belonged to his brother, Quintin, with his inclusion of the entire property in the list of properties left behind by Quintin, without asserting ownership over it or any part thereof;[22]

2. The intestate court had declared that Quintin was the absolute owner of the subject property and dismissed, for lack of sufficient evidence, the claim of Miguel to half of the property;[23]

3. OCT No. P-436, covering the entire subject property, was registered as early as 9 July 1954 but it was only on 13 February 1973 that Miguel Franco obtained the TCT covering half of the property in his name. His silence for 19 years had militated against his claim of ownership and may well be indicative of laches on his part;[24]

4. The subject property was solely declared for taxation purposes in the name of Quintin;[25]

5. The "General Power of Administration," on which Miguel anchored his claim of ownership, had simply documented a delegated power to administer property and could not be a source of ownership;[26]

6. The *Order* dated 6 January 1973 of Judge Rafael Mendoza in Misc. Sp. Proc. No. 2993, which directed the cancellation of OCT No. P-436 was issued without factual basis. Section 112 of the old Land Registration Act which was the apparent basis of the *Order* contemplated only summary proceedings for non-controversial erasures, alterations or amendment of entries in a certificate of title and therefore could not be invoked if there is no unanimity among the parties, or

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[22] *Rollo*, p. 28.

[23] *Ibid.*

[24] *Id.*, pp. 28-29.

[25] *Id.*, p. 29.

[26] *Ibid.*

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if one of them had posed an adverse claim or serious objection which would render the case controversial.[27]

After their motion for reconsideration was denied by the Court of Appeals, the petitioners brought forth the present petition. While asserting that the transfer and registration of one-half of the subject property in the name of Miguel was not done through fraud or in bad faith, they point out that at no time did the respondents question the execution or genuineness of the "General Power of Administration" which purportedly admits of the existence of a trust relation between Quintin and Miguel. They also claim that the Court of Appeals failed to appreciate the recognition which Quintin had accorded to the rights and interest of Miguel.

The findings of the RTC and the Court of Appeals are contradictory; hence, the review of the case is in order.[28] After a thorough examination of the case, we hold that the petition lacks merit and affirm the *Decision* of the Court of Appeals.

Miguel's claim of ownership to half of the subject property is belied by his statement in the Verified *Petition*[29] for issuance of letters administration that he filed on 17 October 1968. Therein, he stated:

"7. — That said Quintin Franco left the following properties:

a — A parcel of agricultural land located at Pinan, Zamboanga del Norte known as Lot No. 5172, Dipolog Cadastre-85 Ext., Cad. Case No. 9. LRC Cad. Rec. No. 769, (S.A. 7612), covered by Original Certificate of Title No. P-436, under Tax Dec. No. 676, assessed at ₱26,120.00, with an area of 706,381 sq. m. (citations omitted)

While he explicitly declared that the subject property belonged to Quintin, at the same time he was remarkably silent about his

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[27] *Id.* at pp. 29-30.

[28] Among the exceptional circumstances that would compel the Supreme Court to review the findings of fact of the lower courts is when the findings of fact are conflicting. See *e.g.*, *Sacay v. Sandiganbayan*, 226 Phil. Rep. 496, 510 (1986).

[29] Records, p. 164; *Rollo*, p. 75.

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claim that he acquired one-half thereof during the lifetime of Quintin. He asserted his claim to the subject property quite belatedly, *i.e.,* four years after he stated under oath and in a court pleading that it belonged in its entirety to his brother. Thus, the statement and the accompanying silence may be appreciated in more than one context. It is a declaration against interest[30] and a judicial admission combined.

A declaration against interest is the best evidence which affords the greatest certainty of the facts in dispute.[31] In the same vein, a judicial admission binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it.[32]

In the case at bar, there is no showing of palpable mistake on the part of Miguel when he made the admission. In his *Motion to Admit Amended Petition*, he merely alleged inadvertence in failing to state his claim of co-ownership. Yet no evidence was adduced to prove the alleged inadvertence. And even assuming there was indeed such a mistake, Miguel had ample opportunity to make the rectification in the initial stages of the intestate proceedings.

Bearing on the weight of the combined declaration against interest and judicial admission is the assumption, arising from his duty as special administrator of the estate of Quintin, that he had full knowledge of the status and extent of the property holdings of the decedent.[33] The following observation of the Court of Appeals is worth citing:

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[30] *See* Sec. 25, Rule 130. "The act, declaration or omission of a party as to a relevant fact may be given in evidence against him."

[31] *Noda v. Cruz-Arnaldo*, G.R. No. L-57322, June 22, 1987.

[32] *Yuliongsu v. PNB*, 130 Phil. Rep. 575, 580 (1968).

[33] A special administrator is required to make and return to the court a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him. *See* Section 1(a), Rule 81, Rules of Court.

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"This tolerant silence militates against Miguel Franco's claim of 'co-ownership.' Juxtaposed with his previous judicial admission of Quintin Franco's absolute ownership of Lot No. 5172, it is not difficult to see that the act of Miguel Franco in registering one-half of the property in his name was an insidious and surreptitious, if not belated, maneuver to deprive the legal heirs of Quintin Franco of their lawful share and interest in the property. As a matter of fact, Miguel Franco may well be charged with laches."[34]

The statement under oath of Miguel was made in the intestate proceedings. It was presented in evidence and utilized as such in Civil Case No. 3847.[35] Thus from the substantive and procedural standpoints alike, the statement being both a declaration against interest and judicial admission should be accorded the full evidentiary value it deserves.

Another important point, albeit simply corollary. The intestate court in its *Order*[36] dated 27 August 1973 declared that Quintin was the absolute owner of the property and accordingly denied Miguel's claim of ownership over half the subject property. The *Order* was apparently issued for the purpose of determining which properties should be included for the inventory of the estate of Miguel. While the intestate court does not have the authority to rule with finality on questions of ownership over the property of the decedent, it is not precluded from making a provisional determination over such questions for purposes relevant to the settlement of the estate, such as ruling whether or not to include properties in the inventory of the estate.[37] And yet, at no time did Miguel file a motion for the reconsideration

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[34] *Rollo*, pp. 28-29.

[35] Private respondents alleged in their Complaint that Miguel had admitted in his petition for issuance of letters administration that Quintin was the owner of the entire subject property. *See* Records, p. 5. The actual Petition is likewise offered by private respondents as Exhibit "X", and paragraph 7 of the petition marked as Exhibit "X-1". Records, p. 146.

[36] *Id.* at p. 188.

[37] See *In the Matter of the Intestate of Deceased Ismael Reyes v. Reyes*, G.R. No. 139587, 22 November 2000.

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of the 27 August 1973 *Order* of the intestate court which denied Miguel's claim of ownership. It was the 1 September 1973 *Order* of the intestate court, by virtue of which Miguel was removed as special administrator, that he contested.[38] While the 27 August 1973 *Order* is a provisional determination of ownership over the subject property, yet conformably to ordinary experience any prudent claimant is expected to dispute such an order which rejects his claim of ownership. Miguel's inaction unmistakably bolsters the unshakeable weight that should be accorded the statement as a declaration against interest and a judicial admission.

Now, the issue viewed from the perspective of the Torrens system of registration. Under the Land Registration Act, title to the property covered by a Torrens title becomes indefeasible after the expiration of one year from the entry of the decree of registration. The decree is incontrovertible and becomes binding on all persons whether or not they were notified of, or participated in, the *in rem* registration process.[39] OCT No. P-436, covering the subject property in its entirety, was registered as early as 9 July 1954 in the name of Quintin. A Torrens title is the best evidence of ownership of registered land.[40] Whatever claim of ownership Miguel had raised should have been weighed against Quintin's title. Unfortunately, the Dipolog RTC, Branch 1 apparently ignored this fundamental principle when on 6 January 1973 it issued the *Order* directing the registration of half of the subject property in the name of Miguel.

The undue haste which characterized Miguel's success in obtaining judicial registration of his ownership over half of the subject property is noticeable. His petition seeking the issuance of a title over his purported half of the property was dated 2

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[38] *See* Records, p. 192. It is also in this Motion for Reconsideration that Miguel first reveals the existence of the Special Power of Administration executed by Quintin.

[39] *David v. Malay*, G.R. No. 132644, November 19, 1999.

[40] *Sps. Villanueva v. Court of Appeals*, G.R. No. 84464, June 21, 1991.

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January 1973, and yet incredibly, it was granted only four days later, or on 6 January 1973. As the Court of Appeals correctly noted:

"The order dated January 6, 1973 of Judge Rafael T. Mendoza in Misc. Sp. Proc. No. 2993, directing the Register of Deeds to cancel OCT No. P-436 and to issue new separate transfer certificates of title for Lot No. 5172-A and Lot No. 5172-B to the Heirs of Quintin Franco and Miguel Franco, respectively, was therefore without factual basis. Besides, it would appear that the order was based on Section 112 of the Land Registration Act (Act No. 496) which contemplates summary proceeding for non-controversial erasures, alterations, or amendments of entries in a certificate of title . . ."[41]

It is clear from reading Section 112 of the old Land Registration Act[42] that the same may be utilized only under limited circumstances.[43] Proceedings under Section 112 are summary

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[41] *Rollo*, pp. 29-30.

[42] Act No. 496. Sec. 112 thereof is now Sec. 108, P.D. No. 1529, otherwise known as the Property Registration Decree.

[43] Sec. 112 reads in full: "No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the registered owner has been married; or if registered as married, that the marriage has been terminated or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, that this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

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in nature, contemplating corrections or insertions of mistakes which are only clerical but certainly not controversial issues.[44] More importantly, resort to the procedure laid down in Section 112 would be available only if there is a "unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest."[45] Such unanimity among the parties has been held to mean "the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section."[46] Clearly, there was no such unanimity among the parties in interest, namely, all the heirs of Quintin. The surreptitious registration by Miguel of the property had worked to the prejudice of the other heirs of Quintin.

There is no document in existence whereby the ownership of any portion of the subject property was conveyed by Quintin to Miguel. The "General Power of Administration" does not suffice in that regard. Indeed, it does not contain any language that operates as a conveyance of the subject property.

The RTC ruling, from which petitioners draw heavy support, maintained that Miguel owned half of the property because the document entitled "General Power of Administration" states that it "admits of an existing trust relation between the signatory Quintin Franco on the one hand, and Miguel Franco on the other hand."[47] The RTC cited Article 1452 of the Civil Code which reads, thus:

Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

[44] *Quevada v. Glorioso*, G.R. No. 121270, August 27, 1998 citing *Republic v. CFI of Baguio-Benguet*, 119 SCRA 405 (1982).

[45] This doctrine enunciated in *Taguman v. Republic*, 94 Phil. 171, 175 (1953) has been subsequently upheld in a long line of cases. See *e.g.*, *Government v. Laperal*, 108 Phil. Rep. 860, 862 (1960); *Lamera v. Callanga*, 153 Phil. Rep. 306, 308-309 (1973); *Fojas v. De Gray*, 217 Phil. Rep. 76, 80 (1984); *Quevada v. Glorioso*, 356 Phil. Rep. 107, 188 (1998).

[46] See *Enriquez v. Atienza* (1957), 100 Phil. 1072, 1077-1078.

[47] Records, p. 500.

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ART. 1452. If two or more persons agree to purchase property and by common consent the legal title is taken in the name of one of them for the benefit of all, a trust is created by force of law in favor of the others in proportion to the interest of each.

Article 1452 presupposes the concurrence of two requisites before a trust can be created, namely: that two or more persons agree to purchase a property, and that they consent that one should take the title in his name for everyone's benefit.[48] The aforementioned provision is not applicable in this case, as it clearly speaks of an instance when the property is acquired through a joint purchase by two or more persons. That circumstance is not present in this case since the subject property was acquired through Quintin's application for a patent. There is no proof that Miguel had joined Quintin in acquiring the property.

Lastly, as noted by the Court of Appeals, while tax receipts and declarations and receipts and declarations of ownership for taxation purposes are not, in themselves, incontrovertible evidence of ownership, they constitute at least proof that the holder has a claim of title over the property.[49] The subject property had been consistently declared for taxation purposes in the name of Quintin, and this fact taken in conjunction with the other circumstances inexorably lead to the conclusion that Miguel's claim of ownership cannot be sustained.

Thus, even without having to inquire into the authenticity and due execution of the "General Power of Administration," it is safe to conclude that Miguel did not have any ownership rights over any portion of the subject property and that the registration of half of the property in his name was baseless and afflicted with fraud.

WHEREFORE, the above premises considered, the petition is *DISMISSED* for lack of merit and the decision of the Court of Appeals is *AFFIRMED*. Costs against petitioners.

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[48] *Nito v. Court of Appeals*, G.R. No. 102657, 9 August 1993, 225 SCRA 231, 235. See also *Ceniza v. Court of Appeals*, G.R. No. 46345, 30 January 1990, 181 SCRA 552, 555.

[49] See also *Ranola v. Court of Appeals*, 379 Phil. Rep. 1, 11 (2000).

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SO ORDERED.

Puno (Chairman), Quisumbing, Austria-Martinez, and *Callejo, Sr., JJ.,* concur.

FIRST DIVISION

[G.R. No. 137909. December 11, 2003]

FIDELA DEL CASTILLO *Vda. DE* MISTICA, *petitioner, vs.* **Spouses BERNARDINO NAGUIAT and MARIA PAULINA GERONA-NAGUIAT,** *respondents.*

SYNOPSIS

On April 5, 1979, Eulalio Mistica entered into a contract to sell with respondent Bernardino Naguiat over a portion of lot containing an area of 200 square meters. Pursuant to their agreement, respondent gave a downpayment of ₱2,000.00 out of the full purchase price of ₱20,000.00. On February 7, 1980, respondent made another payment of ₱1,000.00 and after that no other payment was made. Eulalio died sometime in 1986. Petitioner Fidela Del Castillo *Vda. De* Mistica, Eulalio's widow, filed with the trial court a complaint for rescission of the contact to sell alleging that the failure of respondents to pay the balance of the purchase price constitutes a violation of the contract which entitles her to rescind the same. The trial court dismissed the complaint and ordered respondents to pay the balance of the purchase price. On appeal, the Court of Appeals likewise disallowed rescission of the contract holding that the conclusion of the ten-year period was not a resolutory term because the contract stipulated that payment could still be made if respondents failed to pay within the term. The Court further ruled that rescission would be unjust because respondents had already transferred the land title to their names. Hence, the present petition.