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THIRD DIVISION

[G.R. No. 160956. February 13, 2008]

JOAQUIN QUIMPO, SR., substituted by Heirs of Joaquin Quimpo, Sr., *petitioners, vs.* **CONSUELO ABAD *VDA. DE* BELTRAN, IRENEO ABAD, DANILO ABAD, MARITES ABAD, ANITA and HELEN ABAD,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI* TO THE SUPREME COURT UNDER RULE 45; LIMITED TO REVIEWING OR REVERSING ERRORS OF LAW.— Well-entrenched is the rule that the Supreme Court's role in a petition under Rule 45 is limited to reviewing or reversing errors of law allegedly committed by the appellate court. Factual findings of the trial court, especially when affirmed by the Court of Appeals, are conclusive on the parties. Since such findings are generally not reviewable, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below, unless the factual findings complained of are devoid of support from the evidence on record or the assailed judgment is based on a misapprehension of facts.

2. CIVIL LAW; SPECIAL CONTRACTS; SALES; CONTRACT OF SALE; A DEED OF SALE IS VOID WHEN THE STATED CONSIDERATION HAS NOT IN FACT BEEN PAID.— In *Rongavilla v. Court of Appeals*, reiterated in *Cruz v. Bancom Finance Corp*, we held that a deed of sale, in which the stated consideration has not been, in fact, paid is a false contract; that it is void *ab initio*. Furthermore, *Ocejo v. Flores*, ruled that a contract of purchase and sale is null and void and produces no effect whatsoever where it appears that the same is without cause or consideration which should have been the motive thereof, or the purchase price which appears thereon as paid but which in fact has never been paid by the purchaser to the vendor.

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3. ID.; PROPERTY; CO-OWNERSHIP; PARTITION; PAROL PARTITION, EXPLAINED.— In *Maglucot-aw v. Maglucot*, we held, *viz*: "[P]artition may be inferred from circumstances sufficiently strong to support the presumption. Thus, after a long possession in severalty, a deed of partition may be presumed. It has been held that recitals in deeds, possession and occupation of land, improvements made thereon for a long series of years, and acquiescence for 60 years, furnish sufficient evidence that there was an actual partition of land either by deed or by proceedings in the probate court, which had been lost and were not recorded." Furthermore, in *Hernandez v. Andal*, we explained that: "On general principle, independent and in spite of the statute of frauds, courts of equity have enforced oral partition when it has been completely or partly performed. Regardless of whether a parol partition or agreement to partition is valid and enforceable at law, equity will in proper cases, where the parol partition has actually been consummated by the taking of possession in severalty and the exercise of ownership by the parties of the respective portions set off to each, recognize and enforce such parol partition and the rights of the parties thereunder. Thus, it has been held or stated in a number of cases involving an oral partition under which the parties went into possession, exercised acts of ownership, or otherwise partly performed the partition agreement, that equity will confirm such partition and in a proper case decree title in accordance with the possession in severalty. In numerous cases it has been held or stated that parol partitions may be sustained on the ground of *estoppel* of the parties to assert the rights of a tenant in common as to parts of land divided by parol partition as to which possession in severalty was taken and acts of individual ownership were exercised. And a court of equity will recognize the agreement and decree it to be valid and effectual for the purpose of concluding the right of the parties as between each other to hold their respective parts in severalty. A parol partition may also be sustained on the ground that the parties thereto have acquiesced in and ratified the partition by taking possession in severalty, exercising acts of ownership with respect thereto, or otherwise recognizing the existence of the partition. A number of cases have specifically applied the doctrine of part performance, or have stated that a part performance is necessary, to take a parol partition out of the operation of the statute of frauds. It has been held that

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where there was a partition in fact between tenants in common, and a part performance, a court of equity would have regard to and enforce such partition agreed to by the parties."

4. ID.; ID.; ID.; ID.; ANY CO-OWNER MAY DEMAND AT ANY TIME THE PARTITION OF THE COMMON PROPERTY UNLESS A CO-OWNER HAS REPUDIATED THE CO-OWNERSHIP.— Jurisprudence is replete with rulings that any co-owner may demand at any time the partition of the common property unless a co-owner has repudiated the co-ownership. This action for partition does not prescribe and is not subject to laches.

5. ID.; DAMAGES; ATTORNEY'S FEES; WHEN AWARDED.— The grant of attorney's fees depends on the circumstances of each case and lies within the discretion of the court. It may be awarded when a party is compelled to litigate or to incur expenses to protect its interest by reason of an unjustified act by the other, as in this case.

APPEARANCES OF COUNSEL

Tito Abuda Oneza for petitioners.
Eustaquio S. Beltran for respondents.

R E S O L U T I O N

NACHURA, *J.*:

This Petition for Review on *Certiorari* assails the July 22, 2003 Decision[1] of the Court of Appeals in CA-G.R. CV No. 56187, and the October 16, 2003 Resolution denying the motion for its reconsideration.

Eustaquia Perfecto-Abad (Eustaquia) was the owner of several parcels of land in Goa, Camarines Sur, described as follows:

[1] Penned by Associate Justice Eliezer R. De Los Santos (deceased), with Associate Justices Romeo A. Brawner (retired) and Jose C. Mendoza, concurring; *rollo*, pp. 29-39.

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Parcel I — Residential land situated at Abucayan, Goa, Camarines Sur covering an area of 684 square-meters;

Parcel II – Coconut land situated at Abucayan, Goa, Camarines Sur covering an area of 4.3731 hectares;

Parcel III – Residential land situated at San Jose Street, Goa, Camarines Sur covering an area of 1,395 square meters; and

Parcel IV – Abaca and coconut land situated at Abucayan, Goa, Camarines Sur covering an area 42.6127 hectares.[2]

Eustaquia died intestate in 1948 leaving these parcels of land to her grandchild and great grandchildren, namely, Joaquin Quimpo and respondents Consuelo, Ireneo, Danilo, Marites, Anita and Helen, all surnamed Abad.

In 1966, Joaquin and respondents undertook an oral partition of parcel III (San Jose property) and parcel IV. Half of the properties was given to Joaquin and the other half to the respondents. However, no document of partition was executed, because Joaquin refused to execute a deed. Consuelo and Ireneo occupied their respective shares in the San Jose property, and installed several tenants over their share in parcel IV. Joaquin, on the other hand, became the administrator of the remaining undivided properties and of the shares of respondents Danilo, Marites, Anita and Helen, who were still minors at that time.

In 1989, Danilo, Marites, Anita and Helen wanted to take possession of the portions allotted to them, but Joaquin prevented them from occupying the same. Joaquin also refused to heed respondents' demand for partition of parcels I and II, prompting respondents to file a complaint for judicial partition and/or recovery of possession with accounting and damages with the Regional Trial Court (RTC) of Camarines Sur.[3]

Joaquin denied the material allegations in the complaint, and averred, as his special and affirmative defenses, lack of cause of action and prescription. He asserted absolute ownership over parcels III and IV, claiming that he purchased these lands from

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[2] *Rollo*, p. 29.

[3] *Id*. at 58-62.

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Eustaquia in 1946, evidenced by deeds of sale executed on August 23, 1946 and December 2, 1946. He, likewise, claimed continuous, peaceful and adverse possession of these lots since 1946, and alleged that Consuelo's occupation of the portion of the San Jose property was by mere tolerance.[4]

During the pendency of the case, Joaquin died. Accordingly, he was substituted by his wife, Estela Tena-Quimpo and his children, namely, Jose, Adelia, Joaquin, Anita, Angelita, Amelia, Arlene, Joy and Aleli, all surnamed Quimpo (the Quimpos).

On December 12, 1996, the RTC rendered a Decision[5] in favor of respondents, declaring them as co-owners of all the properties left by Eustaquia. It rejected Joaquin's claim of absolute ownership over parcels III and IV, and declared void the purported deeds of sale executed by Eustaquia for lack of consideration and consent. The court found that at the time of the execution of these deeds, Joaquin was not gainfully employed and had no known source of income, which shows that the deeds of sale state a false and fictitious consideration. Likewise, Eustaquia could not have possibly given her consent to the sale because she was already 91 years old at that time. The RTC also sustained the oral partition among the heirs in 1966. According to the trial court, the possession and occupation of land by respondents Consuelo and Ireneo, and Joaquin's acquiescence for 23 years, furnish sufficient evidence that there was actual partition of the properties. It held that Joaquin and his heirs are now *estopped* from claiming ownership over the entire San Jose property as well as over parcel IV.

The RTC disposed, thus:

> WHEREFORE, decision is hereby rendered in favor of the plaintiffs Consuelo *Vda. de* Beltran, Ireneo Abad, Marites Abad, Danilo Abad, Anita Abad and Helen Abad and against defendant Joaquin Quimpo, substituted by the latter's wife Estela Tena and their children, Amparo, Jose, Amelia, Joaquin Jr., Adelia, Arlene, Anita, Joy, Angelita and Aleli, all surnamed Quimpo, as follows:

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[4] *Id*. at 76-77.

[5] *Id*. at 125-137.

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1. Ordering the above-named substituted defendants, and the plaintiffs to execute their written agreement of partition with respect to parcel Nos. III and IV more particularly described in paragraph 7 of the complaint, and for them to execute an agreement of partition with respect to parcel Nos. I and II, both parcels are more particularly described in paragraph 7 of the complaint;

2. Declaring the plaintiffs Danilo Abad, Marites Abad, Anita Abad and Helen Abad the owner of six (6) hectares a portion included in parcel No. IV also described in paragraph 7 of the complaint, and therefore, entitled to its possession and ordering the said substituted defendants to deliver that portion to them as their share thereto;

3. Ordering the above-named substituted defendants to pay plaintiffs the sum of Six Thousand Pesos (₱6,000.00), Philippine Currency, as reasonable attorney's fees and the sum of One Thousand Pesos (₱1,000.00) also of Philippine Currency, as litigation expenses and for the said defendants to pay the costs.

The counterclaim, not being proved, the same is hereby ordered dismissed.

SO ORDERED.[6]

On appeal, the CA affirmed the RTC ruling. Sustaining the RTC, the CA declared that it was plausible that Eustaquia's consent was vitiated because she was then 91 years old and sickly. It was bolstered by the fact that the deeds of sale only surfaced 43 years after its alleged execution and 23 years from the time of the oral partition. The CA also rejected petitioners' argument that the action was barred by prescription and laches, that prescription does not run against the heirs so long as the heirs, for whose benefit prescription is invoked, have not expressly or impliedly repudiated the co-ownership. The CA found no repudiation on Joaquin's part. It, therefore, concluded that respondents' action could not be barred by prescription or laches.

The Quimpos, thus, filed the instant petition for review on *certiorari* imputing the following errors to the CA:

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[6] *Id.* at 137.

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1) THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PETITIONERS DID NOT ACQUIRE OWNERSHIP OVER [THE] SUBJECT PARCELS OF LAND BY WAY OF DEEDS OF ABSOLUTE SALE EXECUTED IN THEIR FAVOR;

2) THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT CO-OWNERSHIP EXISTS AMONG PETITIONERS AND RESPONDENTS OVER THE SUBJECT PARCELS OF LAND;

3) THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT RESPONDENTS HAVE PROVEN THEIR FILIATION TO THE ORIGINAL OWNER OF THE SUBJECT PARCELS OF LAND BY MERE SCANT EVIDENCE;

4) THE HONORABLE COURT OF APPEALS ERRED IN NOT RULING THAT LACHES HAS TIME–BARRED THE RESPONDENTS FROM ASSAILING THE ABSOLUTE OWNERSHIP OF PETITIONERS OVER THE SUBJECT PARCELS OF LAND; AND

5) THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT RESPONDENTS ARE ENTITLED TO ATTORNEY'S FEES.[7]

The Quimpos insist on the validity of the deeds of sale between Joaquin and Eustaquia. They assail the probative value and weight given by the RTC and the CA in favor of the respondents' pieces of evidence while refusing to give credence or value to the documents they presented. Specifically, they contend that the notarized deeds of sale and the tax declarations should have adequately established Joaquin's ownership of parcels III and IV.

The contention has no merit. Well-entrenched is the rule that the Supreme Court's role in a petition under Rule 45 is limited to reviewing or reversing errors of law allegedly committed by the appellate court. Factual findings of the trial court, especially when affirmed by the Court of Appeals, are conclusive on the parties. Since such findings are generally not reviewable, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below, unless the factual findings complained of are devoid of support from the evidence on record or the assailed judgment is based on a misapprehension of facts.[8]

[7] *Id.* at 17.

[8] *Fagonnil-Herrera v. Fagonil,* G.R. No. 169356, August 28, 2007.

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Petitioners fail to convince us that the CA committed reversible error in affirming the trial court and in giving no weight to the pieces of evidence they presented.

The stated consideration for the sale are ₱5,000.00 and ₱6,000.00, respectively, an amount which was so difficult to raise in the year 1946. Respondents established that at the time of the purported sale Joaquin Quimpo was not gainfully employed. He was studying in Manila and Eustaquia was the one supporting him; that when Eustaquia died two (2) years later, Joaquin was not able to continue his studies. The Quimpos failed to override this. Except for the incredible and unpersuasive testimony of Joaquin's daughter, Adelia Magsino, no other testimonial or documentary evidence was offered to prove that Joaquin was duly employed and had the financial capacity to buy the subject properties in 1946.

In *Rongavilla v. Court of Appeals*,[9] reiterated in *Cruz v. Bancom Finance Corp*,[10] we held that a deed of sale, in which the stated consideration has not been, in fact, paid is a false contract; that it is void *ab initio*. Furthermore, *Ocejo v. Flores*,[11] ruled that a contract of purchase and sale is null and void and produces no effect whatsoever where it appears that the same is without cause or consideration which should have been the motive thereof, or the purchase price which appears thereon as paid but which in fact has never been paid by the purchaser to the vendor.

Likewise, both the trial court and the CA found that Eustaquia was 91 years old, weak and senile, at the time the deeds of sale were executed. In other words, she was already mentally incapacitated by then, and could no longer be expected to give her consent to the sale. The RTC and CA cannot, therefore, be faulted for not giving credence to the deeds of sale in favor of Joaquin.

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[9] 355 Phil. 721 (1998).

[10] 429 Phil. 225, 233 (2002).

[11] 40 Phil. 921 (1920).

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Petitioners also presented Tax Declaration Nos. 3650,[12] 3708,[13] and 3659[14] to substantiate Joaquin's claim of absolute dominion over parcels III and IV. But we note that these tax declarations are all in the name of Eustaquia Perfecto-Abad. These documents, therefore, do not support their claim of absolute dominion since 1946, but enervate it instead. Besides, the fact that the disputed property may have been declared for taxation purposes in the name of Joaquin Quimpo does not necessarily prove ownership for it is well settled that a tax declaration or tax receipts are not conclusive evidence of ownership.[15] The CA, therefore, correctly found this proof inadequate to establish Joaquin's claim of absolute dominion.

For forty-three (43) years, Consuelo and Ireneo occupied their portions of the San Jose property and significantly, Joaquin never disturbed their possession. They also installed tenants in parcel IV, and Joaquin did not prevent them from doing so, nor did he assert his ownership over the same. These unerringly point to the fact that there was indeed an oral partition of parcels III and IV.

In *Maglucot-aw v. Maglucot*,[16] we held, *viz.*:

> [P]artition may be inferred from circumstances sufficiently strong to support the presumption. Thus, after a long possession in severalty, a deed of partition may be presumed. It has been held that recitals in deeds, possession and occupation of land, improvements made thereon for a long series of years, and acquiescence for 60 years, furnish sufficient evidence that there was an actual partition of land either by deed or by proceedings in the probate court, which had been lost and were not recorded.

Furthermore, in *Hernandez v. Andal*,[17] we explained that:

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[12] *Rollo*, p. 208.

[13] *Id*. at 210.

[14] *Id*. at 212.

[15] *Rivera v. Court of Appeals*, 314 Phil. 57 (1995).

[16] 385 Phil. 720, 736-737 (2000).

[17] 78 Phil. 196, 203 (1947).

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On general principle, independent and in spite of the statute of frauds, courts of equity have enforced oral partition when it has been completely or partly performed.

> Regardless of whether a parol partition or agreement to partition is valid and enforceable at law, equity will in proper cases, where the parol partition has actually been consummated by the taking of possession in severalty and the exercise of ownership by the parties of the respective portions set off to each, recognize and enforce such parol partition and the rights of the parties thereunder. Thus, it has been held or stated in a number of cases involving an oral partition under which the parties went into possession, exercised acts of ownership, or otherwise partly performed the partition agreement, that equity will confirm such partition and in a proper case decree title in accordance with the possession in severalty.
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> In numerous cases it has been held or stated that parol partitions may be sustained on the ground of *estoppel* of the parties to assert the rights of a tenant in common as to parts of land divided by parol partition as to which possession in severalty was taken and acts of individual ownership were exercised. And a court of equity will recognize the agreement and decree it to be valid and effectual for the purpose of concluding the right of the parties as between each other to hold their respective parts in severalty.
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> A parol partition may also be sustained on the ground that the parties thereto have acquiesced in and ratified the partition by taking possession in severalty, exercising acts of ownership with respect thereto, or otherwise recognizing the existence of the partition.
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> A number of cases have specifically applied the doctrine of part performance, or have stated that a part performance is necessary, to take a parol partition out of the operation of the statute of frauds. It has been held that where there was a partition in fact between tenants in common, and a part performance, a court of equity would have regard to and enforce such partition agreed to by the parties.

The CA, therefore, committed no reversible error in sustaining the oral partition over parcels III and IV and in invalidating the deeds of sale between Eustaquia and Joaquin.

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Similarly, we affirm the CA ruling that respondents are co-owners of the subject four (4) parcels of land, having inherited the same from a common ancestor – Eustaquia Perfecto-Abad. Petitioners' assertion that respondents failed to prove their relationship to the late Eustaquia deserves scant consideration.

During the pre-trial, Joaquin Quimpo admitted that:

> Eustaquia Perfecto Abad and Diego Abad had two (2) children by the names of Leon Abad and Joaquin Abad; that Leon Abad has three (3) children namely: Anastacia, Wilfredo and Consuelo, all surnamed Abad; that Joaquin Abad has only one (1) child, a daughter by the name of Amparo; that Wilfredo has four (4) children, namely, Danilo, Helen, Marites and Anita; Amparo has one child, son Joaquin Quimpo, x x x[18]

Consuelo was the grandchild of Eustaquia, while respondents Danilo, Helen, Marites, Anita and also Joaquin Quimpo were Eustaquia's great grandchildren. As such, respondents can rightfully ask for the confirmation of the oral partition over parcels III and IV, and the partition of parcels I and II. Jurisprudence is replete with rulings that any co-owner may demand at any time the partition of the common property unless a co-owner has repudiated the co-ownership. This action for partition does not prescribe and is not subject to laches.[19]

Finally, petitioners challenge the attorney's fees in favor of respondents.

The grant of attorney's fees depends on the circumstances of each case and lies within the discretion of the court. It may be awarded when a party is compelled to litigate or to incur expenses to protect its interest by reason of an unjustified act by the other,[20] as in this case.

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[18] Amended Pre-trial Order, *rollo*, p. 89.

[19] *Bravo-Guerero v. Bravo*, G.R. No. 152658, July 29, 2005, 465 SCRA 244, 266.

[20] *Pilipinas Shell Petroleum Corporation v. John Bordman Ltd. Of Iloilo, Inc.*, G.R. No. 159831, October 14, 2005, 473 SCRA 151, 175.

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In fine, we find no reversible error in the assailed rulings of the Court of Appeals.

WHEREFORE, the petition is *DENIED*. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 56187, are *AFFIRMED*.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Corona,* and *Reyes, JJ.,* concur.

SECOND DIVISION

[G.R. No. 162097. February 13, 2008]

LOURDES A. PASCUA, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND TITLES AND DEEDS; REPUBLIC ACT 26; RECONSTITUTION OF TORRENS CERTIFICATE OF TITLE LOST OR DESTROYED; DOCUMENTS THAT MAY BE CONSIDERED AS SUFFICIENT BASES FOR THE RECONSTITUTION OF A LOST OR DESTROYED CERTIFICATE OF TITLE.— Sec. 2 of RA 26 provides: "SEC. 2. Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available in the following order: (a) The owner's duplicate of the certificate of titles; (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title; (c) A certified copy of the certificate of title, previously issued by the register

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* In lieu of Associate Justice Minita V. Chico-Nazario, per Special Order No. 484 dated January 11, 2008.