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In the instant case, had petitioner, Moises Jocson, presented sufficient proof to show that the disputed properties were acquired during his parents' coverture. We would have ruled that the properties, though registered in the name of Emilio Jocson alone, are conjugal properties in view of the presumption under Article 160. There being no such proof, the condition *sine qua non* for the application of the presumption does not exist. Necessarily, We rule that the properties under Exhibit 3 are the exclusive properties of Emilio Jocson.

There being no showing also that the *camarin* and the two ricemills, which are the subject of Exhibit 4, were conjugal properties of the spouses Emilio Jocson and Alejandra Poblete, they should be considered, likewise, as the exclusive properties of Emilio Jocson, the burden of proof being on petitioner.

ACCORDINGLY, the petition is DISMISSED and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Narvasa, Cruz, Gancayco, and *Griño-Aquino, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-30859. February 20, 1989]

MARIA MAYUGA *VDA. DE* CAILLES, and THE HEIRS OF NARCISO, ANGEL, NESTOR and MAURA MAYUGA, *petitioners, vs.* **DOMINADOR MAYUGA and NICOLAS Y. OROSA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; DETERMINATIONS OF FACT MADE BY THE COURT OF APPEALS; CONCLUSIVE UPON

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THE COURT. — The Court of Appeals agreed with the Trial Court, that the private respondents' proofs were superior to those of the petitioners, and that the facts established by the evidence dictated the rendition of judgment in the former's favor. Obviously, such an adjudgment may not be reviewed by this Court, as the petitioners pray. For it is axiomatic that determinations of fact made by the Appellate-Tribunal after due consideration of the evidence are conclusive, absent any of the recognized exceptions to the rule.

2. CIVIL LAW; LAND TITLES AND DEEDS; APPLICATION FOR REGISTRATION OF LAND; FAILURE TO OPPOSE THE SAME; CONSTRUED AS AN ABANDONMENT OR NON-EXISTENCE OF GROUND TO CONTEST IT. — Even assuming that Estanislao Mayuga did not have sole and exclusive title to the land and that he had been holding the shares corresponding to other co-owners in trust for them, his application for registration of the land certainly was a renunciation of the co-ownership, and since that unilateral assertion of individual ownership was not opposed by the petitioners until considerably more than ten (10) years had lapsed, whatever claim the latter might have had as co-owners had ceased to exist, prescinding from the fact that since they are deemed to have had constructive notice of the registration case, a proceeding *in rem* resulting from the publication of notice thereof in the Official Gazette on April 15, 1937, their omission to oppose the same can only be construed as an abandonment or non-existence of ground to contest it, and the judgment therein rendered had acquired immutability and incontestability when no appeal was taken therefrom within the period set therefor.

APPEARANCES OF COUNSEL

Baizas, Alberto & Associates for Dominador Mayuga.

Mary Concepcion for Maria Mayuga *Vda. de* Cailles.

Arturo A. Alafriz & Associates for respondent Nicolas Y. Orosa.

Jose F. Aguirre for intervenors.

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DECISION

NARVASA, *J.*:

The petitioners' appeal involves mainly the sufficiency of secondary evidence presented by private respondents — in proof of the original record, destroyed by fire during the Japanese Occupation, of the registration proceedings had in 1937 in the Court of Fiscal Instance of Rizal over a parcel of land in Barrio Almanza, Las Piñas, Rizal (Lot 9, Plan Psu-11411 Amd-2 of the Bureau of Lands), resulting in a decision declaring said Estanislao Mayuga the owner and directing the issuance of title to the land in his name — in comparison with the petitioners' evidence proffered in substantiation of their own claim of title of the same land. On this question the Court of Appeals[1] declared itself to be in agreement with the Trial Court,[2] that the private respondents' proofs were superior to those of the petitioners, and that the facts established by the evidence dictated the rendition of judgment in the former's favor. Obviously, such an adjudgment may not be reviewed by this Court, as the petitioners pray. For it is axiomatic that determinations of fact made by the Appellate Tribunal after due consideration of the evidence are conclusive,[3] absent any of the recognized exceptions to the rule.[4] The petitioners' appeal must therefore fail.

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[1] Decision in CA-G.R. No. 31887-R, prom. March 6, 1969: R.G. Martin, *J., ponente*; J.S. Rodriguez and C. Alvendia, *JJ.*, concurring.

[2] Decision in Case No. 2839 (based on Registration Case No. 1278, LRC [GLRO] Rec. No. 51752) rendered on January 29, 1962 by then CFI Judge (later Court of Appeals Justice and still later, Supreme Court Justice) Cecilia Muñoz-Palma.

[3] SEE, *e.g.*, *Alaras v. C.A.*, 64 SCRA 671; *Mendoza v. C.A.*, 84 SCRA 67; *Premier Insurance & Surety Corp. v. I.A.C., et al.*, 141 SCRA 423; *Director of Lands v. Funtilar*, 142 SCRA 57; *Republic v. I.A.C.*, 144 SCRA 705; *Manlapaz v. C.A.*, 147 SCRA 236; *Rebudela v. I.A.C.*, 155 SCRA 520.

[4] SEE *Ramos v. Pepsi Cola Co.*, 19 SCRA 289, cited in *Manlapaz v. C.A.*, 147 SCRA 236, *supra*; *Bank of the Philippine Islands v. Pineda*, 156 SCRA 404.

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The case concerning which that appeal has been taken was commenced by a petition filed on August 6, 1958 by private respondent Dominador Mayuga in the Court of First Instance of Rizal, which was docketed as Case No. 2839 (in relation to Registration Case No. 1278, LRC [GLRO] Rec. No. 51752). Invoking the aforementioned 1937 registration proceedings, Dominador Mayuga asked for the issuance of a decree covering the land in his favor, as the only son and forced heir of Estanislao Mayuga. His petition alleged that the proceedings had eventuated in a decision in his father's favor, rendered on May 6, 1937 after due notice and hearing; that despite the decision having long since become final and executory, no decree of registration had yet been issued; and that, his father having died, he was entitled to have title to the land issued in his own name.[5]

The petition was opposed by the heirs of Narciso Mayuga, the father of Estanislao Mayuga, namely: Narciso's daughter, Maria Mayuga *Vda. de* Cailles, and the children of three other deceased children of Narciso: Angel, Nestor and Maura. Constantino Factor, surviving spouse of Maura Mayuga, also joined as oppositor. The oppositors professed lack of knowledge of any registration proceedings affecting the land; they claimed that Dominador Mayuga could not have inherited anything from Estanislao Mayuga, Dominador having in fact been expressly disinherited in Estanislao's will, subsequently admitted to probate in due course, where he (Dominador) had been substituted by his wife and children as Estanislao's heirs, and that therefore the land in question belonged *pro indiviso* to the heirs of Narciso Mayuga.[6]

Subsequently, Nicolas Y. Orosa was allowed to intervene in the case, upon a showing that Dominador Mayuga had assigned all his rights over the land of Marciano Villanueva, and the latter had afterwards transferred said rights to Orosa.[7]

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[5] *Rollo*, p. 3: Record on Appeal, pp. 2-5.

[6] *Id.*, pp. 3-4.

[7] *Id.*, p. 4.

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On the basis of testimonial and documentary evidence adduced for the petitioner in due course — inclusive particularly of secondary proof of the destroyed record of the registration proceedings above mentioned — coupled with the fact that the oppositors had not themselves presented any evidence in substantiation of their own claims, the Trial Court made the following findings of fact, set forth in its decision of January 29, 1962.[8]

"Sometime in June of 1927 Estanislao Mayuga caused the survey of a big tract of land located in Almanza, Las Piñas, Rizal, containing a total area of 1,761,479 square meters. The survey was made by private land surveyor, Alfonso Arboleda, who prepared the plan which was approved by the Director of Lands as Psu-11411 Amd. (see Exh. 'G', page 102 of Record). Among the properties covered by said Plan Psu-11411 Amd is Lot No. 9 with an area of 1,198,017 square meters.

"An application for registration of title was filed by Estanislao Mayuga before the Court of First Instance of Rizal concerning the properties covered by Plan Psu-11411 Amd which was docketed as Land Registration Case No. 1278 GLRO Rec. No. 51752, the initial hearing of which was set for May 6, 1937. The notice of hearing was duly published in the Official Gazette in its issue of April 15, 1937 Vol. 35, No. 45, Page 958 (see Exh. 'C-1' also marked Exh. "2-Orosa", p. 55 of Rec.).

"On October 16, 1937 the Director of Lands approved Amendment Plan of Lots 2, 3, 4, 5, 6, 7, 8 and 9, Psu-11411 Amd., and under this Amendment Plan Amd-2, Lot No. 9 was subdivided into several portions reducing its original area of 1,198,017 to 531,449 square meters (see Exh. 'H', p. 101 of Rec.).

"Appearing in Plan Psu-11411-Amd-2 is the following notation:

'AMENDED IN ACCORDANCE WITH THE DECISION OF THE CFI OF RIZAL DATED MAY 6, 1937 AND SUBJECT TO THE OUTCOME OF THE ORDER OF THE SAME COURT DATED SEPTEMBER 18, 1937.' (Exh. 'H-1').

"The office of the Land Registration Commission certifies to the fact as stated above that the land described in Plan Psu-11411 Amd,

[8] Rec. on Appeal, pp. 51-56.

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was applied for in Land Registration Case No. 1278, LRC Rec. 51752 by Estanislao Mayuga; that there was no opposition recorded in said application; that as shown in the record book of ordinary decrees, No. 3, no decree of registration was issued in said case, more particularly for Lot 9 of Plan Psu-11411 Amd-2; that lately, however, Lot 6 and a portion of Lot 5 of Plan Psu-11411 Amd-2 were decreed in LRC Rec. N-1283, Timoteo S. Cruz, applicant (see Exh. 'C', p. 8, 'E', p. 13, 'F', p. 24 of Rec.).

"As per certification of the Land Registration Commission under date of September 16, 1958, two lots described in Plan Psu-11411 were applied for registration by Narciso Mayuga in Land Registration Case No. 188, GLRO Rec. No. 15285 of the Court of First Instance of Rizal, which case was dismissed and was never revived (see Exh. 'L', page 54 of Rec.).

"As per certification of the Clerk of Court of the Court of First Instance of Rizal dated January 23, 1959, it appears that all the records of the Court existing before and during the enemy occupation were burned and totally destroyed as a result of a fire which razed to the ground the Provincial Government Building of Rizal where the office of the Clerk of Court of First Instance of Rizal was located (see Exh. 'M', page 104 of Rec.).

"The office of the Director of Lands likewise certifies to the fact that there are no available records in the Bureau of Lands regarding the decision of the Court of First Instance of Rizal dated May 6, 1937 and the Order of the same dated September 18, 1937 except for the notation appearing in the blue print plan copy SWO-19265 (Psu-11411-Amd-2), Accession No. 76950 to the following effect:

> "'AMENDED IN ACCORDANCE WITH THE DECISION OF THE COURT OF FIRST INSTANCE OF RIZAL DATED MAY 6, 1937 AND SUBJECT TO THE OUTCOME OF THE ORDER OF THE SAME COURT DATED SEPTEMBER 18, 1937.'"

which annotation according to the certification of the Director of Lands, shows that said Court decision and Order existed before the last war but they might have been lost or destroyed during said War (see Exh. 'N', Page 120).

"On July 30, 1958 the Director of Lands approved a separate Plan for Lot 9, Psu-11411, Amd-2, as Plan AP-5351, showing an area of 531,449 square meters (see Exh. 'A', p. 5); the technical description of said lot appears in Exhibit 'B';

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"The property known as Lot 9, Psu-11411, Amd-2 is declared for taxation purposes in the name of Dominador Mayuga under Tax Declaration No. 4946 of the Province of Rizal (see Exh. 'J' page 18); and the real estate taxes for said property were paid by Dominador Mayuga up to 1958 (see Exh. 'J', page 100), and by Nicolas Y. Orosa for the year 1959 (see Exh. 15-Orosa, page 307).

"On August 20, 1957 Dominador Mayuga executed a deed of sale covering the property in question in favor of Marciano Villanueva for the sum of ₱30,000.00 (see Exh. "12-Orosa", page 299).

"On May 7, 1959, Marciano Villanueva in turn conveyed by way of sale the same property in favor of Nicolas Y. Orosa for the sum of ₱35,000.00 (see Exh. '11-Orosa', page 295).

"Atty. Marcelo M. Bobadilla testifying for the petitioner, declared that Estanislao Mayuga was his client from 1936 up to the time of the latter's death; that among the cases he handled for Estanislao Mayuga was an application for the registration of title covering several parcels of land, which application is the one mentioned in Exhibit 'C-1'; that as far as he recalls there was no oppositor to said application and the latter was given due course and a decision was rendered from which there was no appeal." (Record on Appeal, pp. 51-56).

Upon these facts, the Trial Court disposed of the case as follows.[9]

"WHEREFORE, it having been established by the evidence on record that LRC 1278 (GLRO) Record No. 51752 was decided by the Court of First Instance of Rizal on May 6, 1937 in favor of the applicant Estanislao Mayuga, and it appearing that up to this date no decree has been issued in said case covering Lot 9, Psu-11411, Amd-2, and considering that Estanislao Mayuga is now dead and is survived by his only son, Dominador Mayuga, who has conveyed his rights and interest over the above-mentioned property, which rights were acquired by the intervenor, Nicolas Y. Orosa, as prayed, let the corresponding Decree be issued over the property indicated above, in favor of NICOLAS Y. OROSA, married to LAURA Q. OROSA, both of legal age, Filipinos, and residing at 359 Buencamino Street, San Miguel, Manila."

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[9] *Id.*, pp. 56-60.

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Maria Mayuga *Vda. de* Cailles and her co-oppositors appealed to the Court of Appeals which, as already mentioned, affirmed the Trial Court's decision *in toto*.[10]

They now claim that the Appellate Court's judgment should be reversed because (1) there is no "substantial evidence of the execution and contents of the writing (decision in the land registration case) alleged to have been lost or destroyed during the Second World War," (2) their evidence, mostly documentary, was completely disregarded, which evidence tends to establish "that said Lot 9, Psu-11411 Amd. 2 forms part of the estate of Narciso Mayuga and consequently belongs to the latter's heirs," (3) under the facts, their claim to the property had not been tardily asserted and their right thereto had not been lost by prescription.

On August 21, 1970, Tomas B. Aguirre and Philippine Shares Corporation sought leave of this Court of intervene in these appellate proceedings, pleading a legal interest therein by reason of the fact that the land in dispute overlapped various lots located in the same area registered in their names. The solicitation was opposed by both petitioners and respondents, to which the movants filed a reply. Later, and upon showing that petitioner Jose N. Mayuga, one of the heirs of Angel Mayuga, had died on June 3, 1971, his heirs were ordered substituted in his stead.[11]

Whether or not the registration proceedings in question had indeed taken place and had resulted in a decision dated May 6, 1937 recognizing the applicant's ownership is without doubt an issue of fact. And the affirmative conclusion on the question of both the Trial Court and the Court of Appeals, formed after analysis and assessment of the evidence presented at a formal hearing, is without doubt a conclusion of fact which, by firmly entrenched doctrine, is binding on and may not be reviewed by this Court. In any event, a reading of the items of secondary proof enumerated in the Registration Court's decision of January

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[10] See footnote 1 at p. 1.

[11] *Rollo*, p. 151.

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29, 1962[12] cannot but induce concurrence with the conclusion reached by both the trial and appellate courts of the adequacy thereof to establish the contents of the destroyed record of the registration case. The Appellate Court's description of this secondary proof[13] bears repeating:

"All the foregoing evidentiary bits and pieces, fragmentary though they may seem merely to be, are veritable building blocks which buttress the conclusion as to the existence of the decision of May 6, 1937. Besides being deduced from entries in official records made by public officers in the performance of their duties and therefore *prima facie* evidence of the facts therein stated (Section 38, Rule 130, Rules of Court), the data *** (therein set out) appear to us to be specially trustworthy. For, while they emanate from diverse and independent sources — a circumstance which argues strongly against the possibility of fabrication considering the improbability that wholesale falsification of so many public records could have been perpetrated — the facts elicited all conveniently fit in together like the pieces of a jigsaw puzzle and form a coherent and complete picture of the proceedings taken in the land registration case herein involved. So much so that, reposing confidence in the public records adverted to and the public officers entrusted with the keeping of the same, whose performance of their official functions is legally presumed, and in default of competent and compelling proof to the contrary, we are left no choice but to give our *imprimatur* to the finding of the court *a quo* that appellees have discharged their burden of establishing the existence of the decision of May 6, 1937 in Land Registration Case No. 1278, GLRO Record No. 51752 of the Court of First Instance of Rizal confirming the title of appellees' predecessor-in-interest, Estanislao Mayuga, in and to Lot No. 9 of Plan Psu-11411-Amd.-2. The issuance of the corresponding decree, accordingly, follows as a matter of course."

Neither is there any ground to dissent from the Appellate Court's opinion, based on Plan Psu-11411, that contrary to petitioner's view, said land clearly shows that the portions claimed to belong to Narciso Mayuga are separate and distinct from Lot 9, which had been adjudicated to Estanislao Mayuga.

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[12] See footnote 2, p. 3, *supra*.

[13] *Rollo*, pp. 34-35.

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Nor may the legal conclusions derived from the established facts be faulted, namely: (1) that the alleged disinheritance of Dominador Mayuga by Estanislao Mayuga, his father, was void and completely ineffectual since the avowed cause thereof is not among those enumerated in Article 756 of the Civil Code of 1889; (2) that the absence of reference to Lot 9 as part of the estate of Estanislao Mayuga in the Project of Partition presented in the proceedings for the settlement of his estate (Sp. Proc. No. 340) is inconsequential considering that in the schedule of properties drawn up by Estanislao Mayuga himself in his lifetime, it is clearly stated that he has lands other than those listed, a statement that could not implausibly include the land in dispute; (3) that even assuming that Estanislao Mayuga did not have sole and exclusive title to the land and that he had been holding the shares corresponding to other co-owners in trust for them, his application for registration of the land certainly was a renunciation of the co-ownership, and since that unilateral assertion of individual ownership was not opposed by the petitioners until considerably more than ten (10) years had lapsed, whatever claim the latter might have had as co-owners had ceased to exist, prescinding from the fact that since they are deemed to have had constructive notice of the registration case, a proceeding *in rem,* resulting from the publication of notice thereof in the Official Gazette on April 15, 1937, their omission to oppose the same can only be construed as an abandonment or non-existence of ground to contest it,[14] and the judgment therein rendered had acquired immutability and incontestability when no appeal was taken therefrom within the period set therefor.[15]

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[14] *Delima v. Tio*, 32 SCRA 516; *Pabalate v. Echarri, Jr.*, 37 SCRA 518; *Salandang Pangadil, et al. v. CFI of Cotabato, et al.*, 116 SCRA 347; *Alarcon, et al. v. Hon. Abdulwahid A. Bidin, et al.*, 120 SCRA 390; *Samonte, et al. v. C.A., et al.*, 141 SCRA 189; *Alcos, et al. v. C.A. (I.A.C.), Atlas Consolidated Mining & Development Corporation, et al.*, G.R. No. 79317, June 28, 1988.

[15] Sec. 44, Rule 39 of the Rules of Court of 1940 (now Sec. 49[a], Rule 39).

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The motion period for intervention filed by Tomas B. Aguirre and Philippine Shares Corporation is denied for want of sufficient showing that said movants' rights — respecting which no ruling is hereby made — cannot be fully protected in a separate proceeding.[16]

WHEREFORE, the petition for review is DENIED, and the judgment of the Court of Appeals subject thereof is AFFIRMED in all respects. This judgment is immediately executory. Costs against petitioners.

Cruz, Gancayco, Griño-Aquino, and *Medialdea, JJ.*, concur.

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[16] *Cf. Director of Lands v. C.A., et al.*, 93 SCRA 238 [Resolution, Sept. 25, 1979] cited in *Tahanan Development Corporation v. C.A.*, 118 SCRA 273, where intervention was allowed although sought for the first time on appeal, since the judgment would affect a multitude of persons having rights and interests over property lying in a vast "sprawling" tract of land (embracing the South Super Highway, various roads and infrastructures, factories, lots and residences within several subdivisions) who were not named or identified by the applicant for reconstitution of title and were not given notice thereof; and denial of intervention would cause "the swamping of the courts and the clogging of their dockets with cases involving not only the original parties and the movants but also their successors-in-interest," circumstances and factors not present in the case at bar.