



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

NIEVES NAVARRO, in her capacity as one of the Vendees of a portion of the estate of Dionisia Cayabyab and as one of the Heirs of Victoria Cayabyab, and IRENE NAVARRO, in her capacity as one of the Heirs of Victoria Cayabyab,

*Petitioners,*

G.R. No. 228854

Present:

LEONEN, J., *Chairperson,*  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 LOPEZ, J., *JJ.*

- versus -

ZENaida CAYABYAB HARRIS and ROBERT E. HARRIS, in their capacity as Heirs of Rodrigo Cayabyab and Josefina Bautista Cayabyab; and MELANIO CAYABYAB and MARGARITA LAMBINO, the Heirs of Inocencia Cayabyab; VENERANDA CAYABYAB-PASTRANA, JOSE CAYABYAB and VERONICA SIAPNO, YOLANDA CAYABYAB, and FELIX CAYABYAB and MYRNA PADUA, in their capacity as Heirs of Remegio Cayabyab,

*Respondents.*

Promulgated:

March 17, 2021

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DECISION

INTING, J.:

Before the Court is a Petition<sup>1</sup> for Review on *Certiorari* filed pursuant to Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated January 29, 2016 and the Resolution<sup>3</sup> dated November 7, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 102366. The assailed CA Decision affirmed the Decision<sup>4</sup> dated November 14, 2013 of Branch 41, Regional Trial Court (RTC), Dagupan City in Civil Case No. 2001-0194-D which annulled the Extrajudicial Partition<sup>5</sup> of the estate of Leoncia Tamondong (Leoncia).

### *The Antecedents*

During her lifetime, Leoncia was the registered owner of a 10,269-square meter (sq.m.) parcel of land covered by Transfer Certificate of Title (TCT) No. 2570 (O-43633).<sup>6</sup> She was also the owner of a 638-sq.m. property covered by Original Certificate of Title (OCT) No. 43631.<sup>7</sup>

Leoncia was married to Buenaventura Cayabyab (Buenaventura) and begot five children: Remegio, Victoria, Rodrigo, Dionisia, and Paciencia.<sup>8</sup>

Remegio had five children, namely: Inocencia, Veneranda, Jose, Yolanda, and Felix, all surnamed Cayabyab (collectively, heirs of Remegio).<sup>9</sup>

Victoria had 10 children, namely: John Mike, Irene, Asuncion, Rodolfo, Alfredo, Julio, Nieves, Cecilia, Leonida, and Mercedes, all surnamed Navarro (collectively, the Navarros).<sup>10</sup>

Rodrigo was married to Josefina and they had a daughter named

<sup>1</sup> *Rollo*, pp. 10-27.

<sup>2</sup> *Id.* at 28-40; penned by Associate Justice Magdangal M. De Leon with Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes, concurring.

<sup>3</sup> *Id.* at 47-49.

<sup>4</sup> *Id.* at 55-71; penned by Presiding Judge Emma M. Torio.

<sup>5</sup> Records, p. 26-27.

<sup>6</sup> *Id.* at 22.

<sup>7</sup> *Rollo*, p. 30.

<sup>8</sup> *Id.*; referred to as Pacencia in some parts of the *rollo*.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Zenaida.<sup>11</sup> Rodrigo died on August 15, 1954.<sup>12</sup>

Paciencia died on June 9, 1998 without any issue.<sup>13</sup> This fact was stipulated and admitted by the parties during the Pre-trial Conference.

Leoncia predeceased Buenaventura in 1944.<sup>14</sup>

Dionisia died on November 3, 1996, without any issue.

*The extrajudicial partition after  
the death of Leoncia.*

On September 16, 1961, an Extrajudicial Partition was executed by Leoncia's surviving heirs: Buenaventura, Remegio, Victoria, Dionisia, and Paciencia<sup>15</sup> to the exclusion of Rodrigo, who died in 1954.<sup>16</sup> The eastern portion of TCT No. 2570 (O-43633) consisting of 3,465 sq.m. and the entire lot covered by OCT No. 43631 consisting of 638 sq. m. was adjudicated to Remegio. The remaining area of TCT No. 2570 (O-43633) was apportioned among Buenaventura, Victoria, Dionisia, and Paciencia with each of them being allotted a 1,701-sq.m. portion.<sup>17</sup> Consequently, TCT No. 2570 (O-43633) was cancelled and replaced with TCT No. 11564<sup>18</sup> issued in the names of Remegio, Buenaventura, Victoria, Dionisia, and Paciencia.

In 1963, Victoria died and her 1,701-sq.m. portion of the property was transferred to her heirs, the Navarros.<sup>19</sup>

Buenaventura died in 1975.<sup>20</sup>

On December 28, 1984, Dionisia, through a Deed of Absolute

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<sup>11</sup> *Id.* at 56.

<sup>12</sup> *Id.* at 57.

<sup>13</sup> *Id.* at 59.

<sup>14</sup> *Id.* at 57.

<sup>15</sup> *Id.* at 63.

<sup>16</sup> *Id.* at 30.

<sup>17</sup> *Id.* at 31.

<sup>18</sup> Records, pp. 29-30.

<sup>19</sup> *Rollo*, p. 31.

<sup>20</sup> *Id.*

Sale<sup>21</sup> of even date, sold her 1,701-sq.m. portion to four of the children of her sister Victoria: Nieves, Cecilia, Leonida, and Mercedes (Navarro Vendees).<sup>22</sup> Consequently, TCT No. 63484<sup>23</sup> was issued in their names, together with the other co-owners, Paciencia, Buenaventura and Victoria.

Before Remegio died on September 2, 1995,<sup>24</sup> a Confirmation of Subdivision dated February 2, 1995 pertaining to TCT No. 11564 was executed by Inocencia, Remegio, Felix, Jose, Dionisia, Paciencia, and John Mike in representation of Buenaventura.<sup>25</sup> Remegio's share was then transmitted to his heirs upon his death.<sup>26</sup>

Subsequently, Dionisia died on November 3, 1996.<sup>27</sup>

On July 9, 2001, forty years after the execution of the Extrajudicial Partition, the heirs of Rodrigo (his wife, Josefina and daughter, Zenaida) and Melanio Cayabyab (Melanio), who claimed to be the son of Leoncia, filed a Complaint<sup>28</sup> for Annulment of the Extrajudicial Partition and all transactions resulting therefrom. They also prayed for the RTC to order a new partition of the properties covered by TCT No. 2570 (O-43633) and OCT No. 43631. They alleged that they were left out in the partition of the estate of Leoncia despite their status as compulsory legal heirs.<sup>29</sup> They further alleged that they were likewise excluded in the distribution of the estate of Paciencia.

Only the Navarros that included the Navarro Vendees filed their answer with cross-claim and counterclaims as the other defendants were declared in default. Inocencia was not served with summons on account of her death.<sup>30</sup> The Navarros countered that Zenaida and Melanio were very much aware of the partition of the estate of Leoncia and Buenaventura; and that the estate of Paciencia is yet to be partitioned. They further averred that Zenaida had an unjustified demand to own the

<sup>21</sup> Records, p. 33.

<sup>22</sup> *Rollo*, p. 31.

<sup>23</sup> Records, pp. 34-35.

<sup>24</sup> See Certification dated April 14, 2000 issued by City Civil Registry Office, Dagupan City; Exhibit "S," Exhibits for the Plaintiffs Folder, p. 33.

<sup>25</sup> *Rollo*, p. 31.

<sup>26</sup> *Id.* at 30-31.

<sup>27</sup> See Certificate of Death dated October 21, 2009 signed by Rev. Fr. Douglas C. Nicolas of St. Gabriel the Archangel Parish; Exhibit "Z," Exhibits for the Plaintiffs Folder, p. 46.

<sup>28</sup> Records, pp. 1-14.

<sup>29</sup> *Rollo*, pp. 31-32.

<sup>30</sup> *Id.* at 62.

entire estate of Paciencia despite her lack of any form of assistance, monetary or otherwise during the latter's last days. Allegedly, Zenaida's unjustified demand thwarted and restricted the settlement of the estate of Paciencia.<sup>31</sup> With regard to the claim of Melanio, they challenged his filiation and disputed that he is not the son of Buenaventura and Leoncia, but that of Remegio. They argued that Melanio's birth certificate was simulated in keeping with the tradition and custom in the community to prevent continuity of deaths upon the children of Remegio.<sup>32</sup> They sought the dismissal of the complaint on the ground of prescription and for failure to establish the status of Zenaida, Josefina, and Melanio as heirs of Leoncia in a special proceeding.<sup>33</sup> As cross-claim and counterclaim, they alleged that the shares of Remegio in the Extrajudicial Partition totaling to 4,103 sq.m. were inofficious and must be reduced to conform to the actual share of each heir; and that they are entitled to damages as a consequence of an unfounded suit.<sup>34</sup>

#### *Ruling of the RTC*

On November 14, 2013, the RTC rendered a Decision<sup>35</sup> granting the complaint, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1) Annuling the Extra-judicial Partition dated September 16, 1961, Deed of Absolute Sale dated December 28, 1984, Confirmation of Subdivision dated February 2, 1995, Transfer Certificate of Title No. 11564, Transfer Certificate of Title No. 63484, Tax Declaration Nos. 00639 and 084283 and reverting Lot No. 7551 and 7578 to the estate of Leoncia Tamondong.

2) Ordering the Register of Deeds for the Province of Pangasinan and the Register of Deeds, Dagupan City to revive Transfer Certificate of Title No. 2570 (O-43633) covering Lot No. 7551, and Original Certificate of Title No. 43631 covering Lot 7578, respectively, and the City Assessor, Dagupan City, the Tax Declaration No. 080991 in the name of Spouses Buenaventura Cayabyab and Leoncia Tamondong.

3) Ordering the partition of Lot No. 7551 with an area of

<sup>31</sup> *Id.* at 60-61.

<sup>32</sup> *Id.* at 61-62.

<sup>33</sup> *Id.* at 61.

<sup>34</sup> *Id.* at 62.

<sup>35</sup> *Id.* at 55-71.

10,269 sq. meters and Lot No. 7578 with an area of 638 sq. meters into three (3) equal shares as follows:

a) One-third (1/3) share on each lot or 3,423 sq. meters of Lot No. 7551 and 212.67 sq. meters of Lot No. 7578 to the plaintiffs Zenaida Cayabyab Harris and Josefina Bautista Cayabyab as heirs of Rodrigo Cayabyab.

b) One-third (1/3) share on each lot of 3,423 sq. meters of Lot No. 7551 and 212.67 sq. meters of Lot No. 7578 to the defendants Inocencia Cayabyab, Veneranda Cayabyab-Pastrana, Jose Cayabyab and Veronica Siapno, Yolanda Cayabyab, Felix Cayabyab and Myrna Padua, and plaintiff Melanio Cayabyab as heirs of Remegio Cayabyab.

c) One-third (1/3) share on each lot or 3,423 sq. meters of Lot No. 7551 and 212.67 sq. meters of Lot No. 7578 to the defendants John Mike Navarro and Norma Navarro, Irene Navarro and Boy Alcalde, Nieves Navarro and Inocencio Landingin, Rodolfo Navarro and Flora Navarro, Alfredo Navarro and Helen Navarro, Cecilia Navarro, Asuncion Navarro and Robin Guarin, Leonida Navarro, Julio Navarro and Dorotea Navarro, and Mercedes Navarro and John Peralta as heirs of Victoria Cayabyab.

3) [*sic*] Dismissing all other claims and counterclaims for lack of basis.

No pronouncement as to costs.

SO ORDERED.<sup>36</sup>

The RTC ruled that under Section 1, Rule 74 of the Rules of Court, the Extrajudicial Partition is not binding on Zenaida and Josefina because as heirs of Rodrigo, they did not participate in the partition nor receive their rightful share in their inheritance from the estate of Leoncia in representation of Rodrigo. It further ruled that under Articles 1003 and 1005 of the Civil Code of the Philippines (Civil Code), the estate of Paciencia who died single without any issue should likewise be partitioned among her brothers and sisters which shall include Zenaida and Josefina in representation of Rodrigo, who is Paciencia's brother. Hence, for the RTC, the Extrajudicial Partition of the estate of Leoncia and the partition of the estate of Paciencia including all transactions

<sup>36</sup> *Id.* at 70-71.

entered thereafter, particularly the sale between Dionisia and the Navarro Vendees are void *ab initio*.<sup>37</sup>

With respect to Melanio, the RTC held that his birth certificate was simulated as bolstered by the evidence showing that: (1) it was Melecia Cayabyab, wife of Remegio, who gave birth to Melanio and not Leoncia, who was then way beyond her youth to give birth to a sixth child; (2) Melanio was merely registered as a child of Leoncia and Buenaventura in keeping with the custom and tradition to avoid further deaths in the children of Remegio; and (3) Melanio admitted by his own act and declaration in Remegio's death certificate that he is Remegio's son and never rebutted or refuted it.<sup>38</sup>

#### *Ruling of the CA*

In its Decision<sup>39</sup> dated January 29, 2016, the CA denied the appeal and affirmed the RTC Decision. It agreed with the findings of the RTC that the exclusion of an heir in the Extrajudicial Partition rendered it void with the logical consequence of reverting the properties in dispute to the estate of their original owner, Leoncia. It upheld the ruling of the RTC that Melanio is not the direct heir of Leoncia, but shall inherit from the latter by way of representation as the son of Remegio. It likewise declared the partition of the estate of Paciencia as void. As regards the counterclaim for damages, it affirmed the denial thereof for lack of basis.<sup>40</sup>

Hence, the instant petition.

#### *Issues Before the Court*

Petitioner Nieves Navarro filed the petition in her capacity as one of the Navarro Vendees and as one of the heirs of Victoria; she assails the findings of the CA declaring the sale between Dionisia and the Navarro Vendees as null and void. In addition, the rest of the petitioners (with Irene, one of the heirs of Victoria) question the denial of the award of damages in their favor and reiterate that Zenaida and Melanio

<sup>37</sup> *Id.* at 67-68.

<sup>38</sup> *Id.* at 68-69.

<sup>39</sup> *Id.* at 28-40.

<sup>40</sup> *Id.* at 38-39.

maliciously acted in their dealings with the other heirs and in filing the complaint out of their greed to acquire a bigger share in Leoncia's estate.

*Our Ruling*

The petition is partially meritorious.

This is a case of exclusion of the rightful heirs in the partition of the estate of the deceased who died intestate. Specifically, the exclusion of the rightful heirs was done by virtue of the following acts: (1) execution of a defective Extrajudicial Partition in violation of the principle in succession that children should inherit in equal shares; and (2) the subsequent sale of a corresponding share to the other co-heirs.

To recall, Leoncia, who died intestate was survived by her husband Buenaventura and their five children. However, only Buenaventura, Remegio, Victoria, Dionisia, and Paciencia executed an Extrajudicial Partition that covered the two properties of Leoncia to the exclusion of Rodrigo's heirs. Rodrigo was already deceased at the time of partition. In addition to the 638 sq.m., Remegio was further allotted 3,465 sq.m. from the 10,269-sq.m. property, while Buenaventura, Victoria, Dionisia and Paciencia were each allotted 1,701 sq.m. When Victoria died, her heirs, the Navarros, inherited her 1,701-sq.m. share. Four of the Navarros, namely: Nieves, Cecilia, Leonida, and Mercedes also bought the share of Dionisia as evidenced by the Deed of Absolute Sale dated December 28, 1984, the registration of which caused the issuance of TCT No. 63484 in their favor.

At the time of the execution of the Extrajudicial Partition, Zenaida was only eight years old and she, together with Melanio, was neither aware, nor notified of the Extrajudicial Partition.

*Determination of heirs need  
not be in a separate  
proceeding.*

Preliminarily, although petitioners do not challenge the determination of the lower courts as to the status of Zenaida and Melanio as compulsory heirs of Leoncia, it is important to note that the ruling



herein shall be binding only between and among the parties subject of this proceeding and limited to the cause of action of the ordinary civil action for the nullification of the Extrajudicial Partition.

In the recent case of *Treyes v. Larlar*<sup>41</sup> (*Treyes*) the Court *En Banc* ruled that unless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such. The Court further ruled that the ruling of the trial court shall only be in relation to the cause of action of the ordinary civil action, *i.e.*, the nullification of a deed or instrument and recovery or reconveyance of property, which ruling is binding only between and among the parties.<sup>42</sup>

In this case, the Complaint for Annulment of the Extrajudicial Partition and all transactions therefrom was filed by the heirs of Rodrigo and Melanio to enforce their ownership rights in Leoncia's estate which they acquired by virtue of succession. There is nothing in the records to show that there is a special proceeding for the settlement of the estate of Leoncia or for the determination of Leoncia's heirs. Thus, applying the Court's pronouncement in *Treyes*, the Court finds the filing of the Complaint for Annulment of the Extrajudicial Partition and all transactions therefrom proper despite the lack of a prior and separate judicial declaration of heirship.

*The nullity of the Extrajudicial Partition does not render void the sale to the Navarro Vendees which was limited to Dionisia's share.*

The Court now proceeds to the issue raised in this petition as to the alleged automatic nullity of the subsequent sale made by Dionisia to the Navarro vendees which covered the former's portion in the nullified Extrajudicial Partition.

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<sup>41</sup> G.R. No. 232579, September 8, 2020.

<sup>42</sup> *Id.*

As correctly found by the lower courts, the exclusion of an heir in the extrajudicial partition of the estate of Leoncia makes it void.

To reiterate, only for purposes of this proceeding, Rodrigo is indisputably a legitimate child of Leoncia, being married to Buenaventura. Consequently, Rodrigo is entitled to inherit from Leoncia in his own right in equal shares with Remegio, Victoria, Dionisia and Paciencia pursuant to Article 980 of the Civil Code:

ART. 980. The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares.

Thus, at the time of Leoncia's death in 1944, Rodrigo is entitled to one-sixth portion of her mother's estate similar to the share of each of Leoncia's surviving heirs that entitled them to their *pro indiviso* shares in her whole estate.

Upon the death of Rodrigo in 1954, his share was automatically inherited by his surviving heirs: his wife Josefina and daughter Zenaida, herein respondents.

Indeed, in the execution of the Extrajudicial Partition of the estate of Leoncia, all her heirs should have participated. Admittedly, Rodrigo's heirs, *i.e.*, his wife Josefina and daughter Zenaida, who was then a minor, were excluded in the execution of the Extrajudicial Partition of the estate of Leoncia in 1961. Thus, they had neither knowledge nor participation in its execution.

In *Constantino, et al. v. Heirs of Pedro Constantino, Jr.*,<sup>43</sup> the Court declared that an extrajudicial settlement executed with the intention to exclude co-heirs of their rightful share in the estate of the deceased is void and inexistent for having a purpose or object which is contrary to law. Similarly, in *The Roman Catholic Bishop of Tuguegarao v. Prudencio, et al.*,<sup>44</sup> the Court decreed the extra-judicial partition as void under Article 1409(1)<sup>45</sup> or those whose cause, object or purpose is

<sup>43</sup> 718 Phil. 575 (2013).

<sup>44</sup> 794 Phil. 462 (2016).

<sup>45</sup> Article 1409(1) of the Civil Code of the Philippines provides:

Article 1409. The following contracts are inexistent and void from the beginning;

(1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy;

contrary to law, morals, good customs, public order or public policy since the signatories therein acted in bad faith when they declared that they are the only living heirs despite knowledge to the contrary. Veritably, a deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of and consent, is fraudulent and vicious.<sup>46</sup> It has no force and effect from the beginning as if it had never been entered into and it cannot be validated either by time or ratification making an action or defense for the declaration of the inexistence of a contract imprescriptible in accordance with Article 1410<sup>47</sup> of the Civil Code.<sup>48</sup>

Nevertheless, while the partition of the estate of Leoncia is null and void, the subsequent sale made by Dionisia of her share in favor of the Navarro Vendeas is valid, but only with respect to her proportionate share, contrary to the findings of the lower courts. It cannot be denied that Dionisia has acquired her respective share in the properties of Leoncia from the moment of the latter's death and that, as owner thereof, she can very well sell her undivided share in the estate. As a surviving heir of Leoncia, she became a co-owner of the latter's properties with full ownership rights over her *pro indiviso* share. Article 493 of the Civil Code defines the rights of a co-owner:

ART. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Dionisia may therefore sell her undivided interest in Leoncia's estate and this disposition shall affect only her *pro indiviso* share.

Respondents Zenaida and Melanio, in their Comment (to the Petition for Review on *Certiorari*), mentioned the case of *Bautista v. Bautista*,<sup>49</sup> wherein the Court declared a deed of Extrajudicial Partition as invalid, including the subsequent transfer to the other heirs of the

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<sup>46</sup> *The Roman Catholic Bishop of Tuguegarao v. Prudencio, et al.*, *supra* note 44 at 475.

<sup>47</sup> Article 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.

<sup>48</sup> *Neri, et al. v. Heirs of Hadji Yusop Uy, et al.*, 697 Phil. 217, 230 (2012).

<sup>49</sup> 556 Phil. 40 (2007).

property involved therein under the principle of *nemo dat quod non habet* conferring no rights upon the transferees.<sup>50</sup> This is very unfortunate as the Court in that aforementioned case even cited *Segura v. Segura*,<sup>51</sup> which clearly declared that with the deed of partition being invalid as to the other heirs, the vendors could only dispose of their respective shares in the land, making the vendees *pro indiviso* co-owners together with the other heirs.

*Each co-owner has the right to ask for partition of the property owned in common.*

As the RTC and the CA properly nullified the impugned Extrajudicial Partition and the titles issued in consonance therewith, the partition of the parcels of land subject of the voided document in accordance with the laws on intestate succession is in order. Each co-owner has the right to ask for the partition of the property owned in common as no co-owner may be compelled to stay in a co-ownership indefinitely.<sup>52</sup> In the instant case, respondents' prayer in their complaint included the ordinary action of partition of the subject properties covered by TCT No. 2570 (O-43633) and OCT No. 43631 and the award of their rightful share as compulsory heirs of Leoncia.<sup>53</sup> The ordinary action of partition is covered by Section 1, Rule 69 of the Rules of Court, to wit:

SEC. 1. *Complaint in action for partition of real estate.* — A person having the right to compel the partition of real estate may do so as provided in this Rule, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all other persons interested in the property.

Thus, without prejudice to the settlement of Leoncia's estate in a separate special proceeding, if any, the partition herein shall be limited to the aforementioned subject properties which shall be divided in accordance with the law on succession in case of intestacy as sought by

<sup>50</sup> *Id.* at 46.

<sup>51</sup> 247-A Phil. 449 (1988).

<sup>52</sup> *The Roman Catholic Bishop of Tuguegarao v. Prudencio, et al.*, *supra* note 44 at 477, citing *Patricio v. Dario III*, 537 Phil. 595, 608 (2006), further citing *Santos v. Santos*, 396 Phil. 928, 948 (2000).

<sup>53</sup> Records, p. 13.

respondents as compulsory heirs of the late Leoncia who were unlawfully excluded in the nullified Extrajudicial Partition.

*Petitioners are not entitled to an award for damages.*

As correctly observed by the lower courts, there is no basis for the award of damages. Petitioners failed to support their counterclaim for damages which was rooted on the alleged unfounded complaint with unjustifiable demands. On the contrary, Zenaida and Melanio were merely protecting their rights to inherit from the late Leoncia as it was proven that, at the very least, Zenaida, in representation of Rodrigo, was unjustly and wrongfully excluded from the Extrajudicial Partition and that both of them are entitled to a portion in Leoncia's estate.

**WHEREFORE**, the instant petition is **PARTIALLY GRANTED**. The Decision dated January 29, 2016 and the Resolution dated November 7, 2016 of the Court of Appeals in CA-G.R. CV No. 102366 are **SET ASIDE** and a new judgment is entered:

1. **DECLARING** the Extrajudicial Partition of the estate of Leoncia Tamondong dated September 16, 1961 as **NULL** and **VOID**;

2. **DECLARING** Transfer Certificate of Title No. 11564 together with the Confirmation of Subdivision dated February 2, 1995, Transfer Certificate of Title No. 63484, Tax Declaration Nos. 00639 and 084283 as null and void and **ORDERING** the Register of Deeds for the Province of Pangasinan and the Register of Deeds in Dagupan City to cancel the titles and in lieu thereof, reinstate TCT No. 2570 (O-43633) and OCT No. 43631 to Leoncia Tamondong and for the Provincial Assessor to cancel the Tax Declarations;

3. **DECLARING** the Deed of Absolute Sale dated December 28, 1984 in favor of Nieves Navarro, Cecilia Navarro, Leonida Navarro, and Mercedes

Navarro with respect to the 1,701-square meter share of the late Dionisia Cayabyab in Leoncia's estate as **VALID** and **EFFECTIVE**;

4. **DECLARING** Nieves Navarro, Cecilia Navarro, Leonida Navarro, and Mercedes Navarro as **LAWFUL CO-OWNERS** of a 1,701-square meter portion of Leoncia's estate;

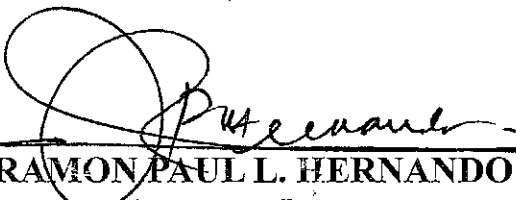
5. The Heirs of Leoncia Tamondong are directed to partition the subject parcels of land covered by TCT No. 2570 (O-43633) and OCT No. 43631 in accordance with the law of intestate succession.

**SO ORDERED.**

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*  
*Chairperson*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

  
**JHOSEP V. LOPEZ**  
*Associate Justice*

**ATTESTATION**

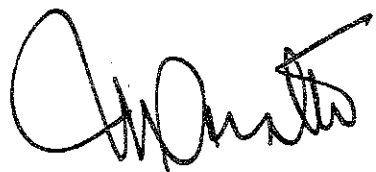
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
*Chief Justice*

