



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
JUL 03 2025

BY:

TIME:

THIRD DIVISION

DOMICIANO and ANSELMA
HEREZO,

G.R. No. 275978

Petitioners,

Present:

- versus -

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* JJ.

ERNESTO MAQUILING,
Respondent.

Promulgated:

APR 23 2025
MICPDCB/H

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioners spouses Domiciano and Anselma Herezo (collectively, Spouses Herezo) assailing the Decision² dated April 28, 2023, and the Resolution³ dated June 24, 2024, of the Court of Appeals (CA) in CA-G.R. CEB CV No. 06436. The CA affirmed

* On leave.

¹ *Rollo*, pp. 20–46.

² *Id.* at 47–58. Penned by Associate Justice Jacinto G. Fajardo, Jr. and concurred in by Associate Justices Marilyn B. Lagura-Yap and Rogelio G. Largo of the Nineteenth Division, Court of Appeals, Cebu City.

³ *Id.* at 60–61. Penned by Associate Justice Jacinto G. Fajardo, Jr. and concurred in by Associate Justices Marilyn B. Lagura-Yap and Rogelio G. Largo of the Nineteenth Division, Court of Appeals, Cebu City.

the Decision⁴ dated December 28, 2015, of Branch 26, Regional Trial Court (RTC) of Iloilo City in Civil Case No. 05-28661 that declared respondent Ernesto Maquiling (Ernesto) as the rightful owner and possessor of the lot in dispute.

The Antecedents

The case stemmed from a Complaint⁵ for Recovery of Ownership and Possession of a Parcel of Land filed by Ernesto against Spouses Herezo. Ernesto alleged that he is the lawful owner of a parcel of land known as Lot No. 322-C, with an area of 200 square meters (subject property), located in Barangay Aganan, Pavia, Iloilo. The subject property is part and parcel of a bigger lot, Lot No. 322, covered by Original Certificate of Title No. 107 with a total area of 631 square meters and originally owned by the sisters, Teopista, Gerarda, and Marciana, all surnamed Herezo.⁶

Ernesto claimed that he obtained the ownership of the subject property from Benigno Herezo (Benigno) through a Deed of Sale dated November 17, 2004. Benigno in turn acquired the subject property from Teopista on December 28, 1991.⁷

The controversy began after the execution of the sale between Benigno and Ernesto and when the latter tried to occupy the subject property but was prevented by Spouses Herezo.⁸

For their part, Spouses Herezo alleged that on January 19, 2000, Teopista, the only surviving owner, sold the whole of Lot No. 322 in favor of Domiciano for PHP 38,000.00, evidenced by a notarized Declaration of Heirship with Deed of Absolute Sale. Thereafter, Domiciano took possession of the property, built building and other improvements within the premises, and paid the real estate taxes. However, due to financial constraints, Spouses Herezo were not able to facilitate the formal transfer of title in their names.⁹

⁴ *Id.* at 95–126. Penned by Judge Antonio M. Natino.

⁵ *Id.* at 64–68.

⁶ *Id.* at 49.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 49–50.

Ernesto brought the matter to the barangay, but no settlement was reached by the parties. Thus, Ernesto filed a Complaint for Recovery of Ownership and Possession of the subject property on September 2, 2005.¹⁰

The Ruling of the RTC

On December 28, 2015, the RTC rendered a Decision¹¹ in favor of Ernesto wherein it ruled that the sale of the subject property by Teopista in favor of Benigno trumps the resale of the same property to Domiciano, the former deed being a public instrument.¹² The dispositive portion of the said Decision reads:

WHEREFORE, in view of the foregoing considerations, plaintiff is hereby declared the rightful owner and entitled of the possession of the portion with an area of 200 square meters of Lot 322 of OCT No. 107 and judgment is rendered in favor of the plaintiff as against the defendants by:

1. Ordering the defendants to deliver to the plaintiff portion of Lot 322 to the extent of 200 square meters which is the subject matter of the Deed of Sale executed by Benigno Herezo in favor of Ernesto Maquiling dated November 17, 2004 (Exh "B");
2. Ordering the defendants to acknowledge the validity of the sale executed by Teofista Herezo in favor of Benigno Herezo and the subsequent sale of Benigno Herezo to Ernesto Maquiling thereby divesting from defendants ownership over the 200 square meters portion of Lot 322 and vesting the same in favor of plaintiff;
3. Ordering the defendants to pay attorney's fees in the amount of [PHP] 40,000.00, litigation expenses in the amount of [PHP] 20,000.00 and to pay the cost.

SO ORDERED.

Aggrieved, Spouses Herezo appealed to the CA.¹³

¹⁰ *Id.* at 49.

¹¹ *Id.* at 95-126.

¹² *Id.* at 125.

¹³ *Id.* at 127. *See* Notice of Appeal dated March 2, 2016.

The Ruling of the CA

In the assailed Decision¹⁴ dated April 28, 2023, the CA affirmed *in toto* the RTC Decision dated December 28, 2015, to wit:

Significantly, if the sale was not registered, the law requires acquisition in good faith and possession in good faith. For appellants to defeat the claim of Ernesto, they must have shown that they have acquired the subject lot ahead of Benigno and thereafter, possessed the property as owners thereof. However, the appellants failed in this regard.

Accordingly, there exists no justification to reverse the ruling of the court a quo and declare appellants as owners of the subject property.

WHEREFORE, the appeal is DENIED. The Decision dated December 28, 2015 of Branch 26 of the Regional Trial Court of Iloilo City in Civil Case No. 05-28661 is hereby AFFIRMED *in toto*.

SO ORDERED.¹⁵ (Citations omitted)

The CA found Benigno as the first possessor in good faith in the double sale.¹⁶ It likewise upheld the validity of Teopista's right to sell part of her undivided interest in the co-owned Lot No. 322, the entirety of which was eventually adjudicated upon her, having survived her co-owners who remained unmarried and without children.¹⁷

Spouses Herezo sought reconsideration¹⁸ but the CA denied it in a Resolution¹⁹ dated June 24, 2024.

Hence, the present Petition.

¹⁴ *Id.* at 47–59.

¹⁵ *Id.* at 58.

¹⁶ *Id.*

¹⁷ *Id.* at 55.

¹⁸ *Id.* at 176–183.

¹⁹ *Id.* at 60–61.

Petitioners' Arguments

Citing the case of *Spouses Rol v. Racho*,²⁰ Spouses Herezo contend that the sale of a definite portion of a co-owned property requires the consent of all co-owners; thus, Teopista could not have validly sold the subject property to Benigno, who in turn, could not have transferred the same to Ernesto.²¹

Further, Spouses Herezo ground their claim of possession on the *Kasugtanan*²² dated May 9, 1993. They aver that the CA erred in declaring that Domiciano has not yet paid his obligation, as stipulated therein.²³

The Issue

The issue of the case is whether the CA erred in upholding the RTC's finding that Ernesto has a better right to the subject property over Spouses Herezo.

The Ruling of the Court

The Court denies the Petition.

Preliminarily, the instant Petition alleges, albeit *only once*, that "the Honorable Lower Court has acted without or in excess of jurisdiction or with grave abuse of discretion, amounting to lack or excess of jurisdiction" and prays "that the Writ of *Certiorari* be issued."²⁴ However, the arguments raised, which are mere errors of judgment, impels this Court to treat the instant case as a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Nonetheless, the Court finds no merit in the Petition.

In *Spouses Rol*, the extrajudicial settlement with sale was rendered null and void by the Court because it was executed without the knowledge

²⁰ 893 Phil. 856, 862 (2021), citing *Cabrera v. Isaac*, 747 Phil. 187, 207 (2014).

²¹ *Rollo*, p. 30.

²² *Id.* at 200.

²³ *Id.* at 34.

²⁴ *Id.* at 39.

and consent of one of the co-owners of the undivided property.²⁵ Following this, Spouses Herezo argue that the sale of the subject property between Teopista and Benigno is void absent the consent of Gerarda and Marciana. Consequently, no right or interest over the property could have been passed by Benigno to Ernesto.

The Court disagrees with Spouses Herezo's argument.

Spouses Herezo failed to realize that what was nullified in *Spouses Rol* was *only* the extrajudicial partition of the co-owned property executed to the total exclusion of one of the co-heirs. On the contrary, the Court in the same case allowed co-owners to sell their *pro-indiviso* share in the co-owned property, provided that the portion sold shall not exceed the share that may be allotted to them upon partition, viz.:

In this case, when Loreto died, his siblings, namely, Fausto, Chita, Maria, and Isabel all became co-owners of Loreto's intestate estate, i.e., Lot No. 1559, pursuant to Article 1078 of the Civil Code, with all of them having equal interest therein, i.e., 1/4 of the property. Thus, for the alienation of definite portions of Lot No. 1559 to be valid, it must be with the consent of all of them. However, the alienations of definite portions made in the EJSS was without the knowledge and consent of Isabel, and hence, are null and void.

Nonetheless, as co-owners of Lot No. 1559, Fausto, Chita, Maria, and Isabel are free to dispose of their undivided aliquot shares therein, which shall be limited to the portion that may be allotted to them upon partition. Otherwise stated, before an actual partition of an estate, an heir can only alienate his successional rights or undivided interest thereto, and not specific portions thereof.²⁶ (Emphasis supplied; citations omitted)

Accordingly, the CA is correct in upholding the validity of the sale between Teopista and Benigno. A co-owner's undivided interest could properly be the object of a contract of sale between parties. The vendee obtains the same rights as the vendor had as a co-owner and acquires a proportionate abstract share in the property held in common.²⁷ Here, Benigno, at the very least, acquired Teopista's rights as a co-owner of Lot No. 322. Resultantly, the same was transferred to Ernesto when the sale was made in his favor on November 17, 2004.

²⁵ *Spouses Rol v. Racho*, *supra* note 20, at 862, citing *Cabrera v. Isaac*, *supra* note 20, at 206.

²⁶ *Spouses Rol v. Racho*, *id.* at 863-864.

²⁷ *Spouses Del Campo v. Court of Appeals*, 403 Phil. 706, 717 (2001).

Moreover, while a definite portion of Lot No. 322 was conveyed to Benigno, it is undisputed that the subject property did not exceed the ideal shares held by Teopista in the co-ownership. As a matter of fact, the Herezo sisters made several conveyances regarding Lot No. 322 but none of the co-owners and buyers questioned Benigno when he started occupying and building improvements on the subject property in April 1992.²⁸ The Court, in *Heirs of Marquez v. Heirs of Hernandez*,²⁹ citing *Pamplona v. Moreto*,³⁰ is instructive on this point, to wit:

The title may be *pro-indiviso* or inchoate but the moment the co-owner as vendor pointed out its location and even indicated the boundaries over which the fences were to be erected *without objection, protest or complaint by the other co-owners*, on the contrary they acquiesced and tolerated such alienation, occupation and possession. We rule that a factual partition or termination of the co-ownership, although partial, was created, and barred not only the vendor, Flaviano Moreto, but also his heirs, the private respondents herein from asserting as against the vendees-petitioners any right or title in derogation of the deed of sale executed by said vendor Flaviano Moreto.³¹ (Emphasis supplied; citation omitted)

Applying the foregoing, it was Teopista's clear intention to sell a part of her aliquot share in Lot No. 322 to Benigno, and the sale can be given effect to the full extent, absent any protest from the other co-owners. The fact that Teopista eventually adjudicated the whole of Lot No. 322 to herself, having survived her co-owners and sisters who remained unmarried and without issue, renders the issue moot and academic.

Thus, the CA aptly found that Ernesto is the rightful owner of the subject property, to the exclusion of Spouses Herezo.

Finally, the issue of whether Domiciano paid the shares of his siblings pursuant to the *Kasugtanan* is a factual issue which is beyond the ambit of a Rule 45 petition. It must be underscored that under Rule 45 of the Rules of Court, only questions of law may be raised in the petition and resolved by the Court.³² The rule applies with more reason in the instant case considering that the factual findings of the RTC were affirmed by the CA on appeal.

²⁸ *Rollo*, p. 56.

²⁹ 921 Phil. 693 (2022).

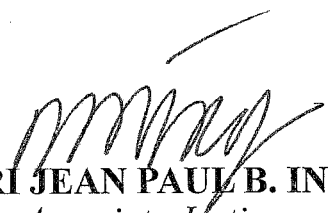
³⁰ 185 Phil. 556, 564 (1980).

³¹ *Id.* at 708.

³² *Hrs. of Marquez v. Hrs. of Hernandez*, *supra*, at 702–703. See also *Tenazas v. R. Villegas Taxi Transport*, 731 Phil. 217, 228 (2014).

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated April 28, 2023, and the Resolution dated June 24, 2024, of the Court of Appeals in CA-G.R. CEB CV No. 06436 are **AFFIRMED *in toto***.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

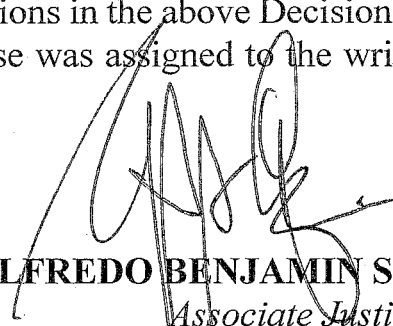


JAFAR B. DIMAAMPAO
Associate Justice

(On leave)
MARIA FILOMENA D. SINGH
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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice



