



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

**EVANGELINE ENGAO ASIS,
 HEIRS OF FELICITATION
 ENGAO-BAUTISTA, NAMELY:
 FERNANDO B. BAUTISTA,
 AGUEDA FE B. BARREDO,
 FERNANDO E. BAUSTISTA, JR.,
 and AMADO REX E. BAUTISTA,
 HEIRS OF ERMA ENGAO
 TROCINO, NAMELY: FELIPE E.
 TROCINO and PAMELA T. DELA
 CRUZ, and CESAR A. ENGAO,**
Petitioners,

G.R. No. 242127

Present:

PERLAS-BERNABE, *SAJ.*,
Chairperson,
 HERNANDO,
 INTING,
 GAERLAN, and
 ROSARIO, **JJ.*

- versus -

**HEIRS OF ROSELLO
 CALIGNAWAN, NAMELY:
 ERLINDA A. CALIGNAWAN,
 VINCENT A. CALIGNAWAN,
 LINDRO A. CALIGNAWAN,
 SHERMAN A. CALIGNAWAN,
 MARVI A. CALIGNAWAN, IAN
 LOYD A. CALIGNAWAN, GARY
 MARTIN A. CALIGNAWAN, and
 MARY ROSE A. CALIGNAWAN,**
Respondents.

Promulgated:

SEP 15 2021

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DECISION

HERNANDO, J.:

Petitioners Evangeline Engao Asis (Evangeline), Heirs of Felicitacion Engao-Bautista (Felicitacion heirs), namely Fernando B. Bautista, Agueda Fe B. Bautista, Fernando E. Bautista, Jr., and Amado Rex E. Bautista, Heirs of Erma Engao Trocino (Erma heirs) namely Felipe E. Trocino and Pamela T.

* Designated as additional Member per Special Order No. 2835 dated July 15, 2021.

Dela Cruz, and Cesar A. Engao (Cesar), (collectively, petitioners) filed the instant Petition for Review¹ against respondents Heirs of Rosello Calignawan (respondents), namely Erlinda, Vincent, Lindro, Sherman, Marvi, Ian Loyd, Gary Martin and Mary Rose, all surnamed Calignawan, assailing the January 18, 2018 Decision² of the Court of Appeals (CA) which granted the appeal of the Rosello heirs, and consequently reversed and set aside the December 16, 2009 Decision³ of the Regional Trial Court (RTC), Branch 9, Tacloban City in Civil Case No. 89-01-005, a case for declaration of nullity of documents, partition and damages with preliminary injunction.

The Antecedents:

The spouses Cesario (Cesario) and Romana Engao (Romana; collectively, Spouses Engao) begot two children, namely Felipe Engao (Felipe) and Angeles Engao-Calignawan (Angeles). Felipe had four children, herein petitioner Evangeline, Erma Engao-Trocino (Erma), Felicitation Engao-Bautista (Felicitation), and petitioner Cesar (collectively, Felipe heirs). Meanwhile Rosello Calignawan (Rosello),⁴ father of herein respondents, grew up with the spouses Vicente (Vicente) and Angeles in Tacloban City.

Lot No. 581 and Lot No. 2064 (subject properties) located in M.H. del Pilar Street, Tacloban City were registered under the names of Romana and Angeles and were originally covered by TCT No. T-1084 (TCT T-1084)⁵ and TCT No. T-1051 (TCT T-1051),⁶ respectively.

The controversy stemmed from Rosello's Complaint⁷ for declaration of nullity of documents, partition and damages against Evangeline, Felicitation, Erma, Cesar and Felipe. He alleged that when Romana died in 1975, Angeles became the owner of the three-fourths portion of the subject properties with one-half as her own share and one-fourth was as inheritance from Romana. The remaining one-fourth belonged to Felipe. Rosello also averred that Angeles executed a Deed of Donation in his favor on May 25, 1984, hence, he is entitled to a share in the subject properties.⁸

While Rosello was updating the tax declarations of the subject properties in 1988, he discovered that the certificates of title (TCT T-1084 and TCT T-1051) and the tax declarations corresponding to the subject properties had

¹ *Rollo*, pp. 11-61.

² *Id.* at 64-80; penned by Associate Justice Edgardo L. Delos Santos (now a retired Member of this Court) and concurred in by Associate Justices Edward B. Contreras and Louis P. Acosta.

³ *Id.* at 112-133; penned by Judge Rogelio C. Sescon.

⁴ Referred to as Roselio in other parts of the records.

⁵ Records, p. 11.

⁶ *Id.* at 12.

⁷ *Rollo*, pp. 94-103. See also Amended Complaint, records, p. 208.

⁸ *Id.* at 65.

already been cancelled. To his surprise, new transfer certificates of title over the subject properties were issued, particularly TCT T-26416,⁹ TCT T-26418,¹⁰ TCT T-26419,¹¹ and TCT T-26415¹² in the name of Felicitation, Erma, Evangeline, and his own name, respectively, whereas TCT T-26417¹³ was registered in favor of Felicitation, Erma, Evangeline, Cesar and Rosello, collectively.

Moreover, Rosello unearthed a Deed of Adjudication of the Estate of the Deceased Persons¹⁴ (Deed of Adjudication) and a Deed of Consolidation and Subdivision of Real Properties¹⁵ (Deed of Consolidation), both dated December 2, 1982, which facilitated the transfer of the subject properties and resulted in the cancellation of the original certificates of title and the eventual issuance of the new ones. Evident on the face of the documents were the names and signatures of Rosello, Evangeline, Erma, Felicitation and Cesar. However, Rosello claimed that his signature appearing thereon was a forgery. He further contended that Angeles and Felipe were very much alive when said documents were executed, hence, Evangeline, Erma, Felicitation and Cesar had no right to inherit or adjudicate the subject properties among themselves during that time.

These revelations prompted Rosello to file a Complaint¹⁶ for Declaration of Nullity of Documents, Partition and Damages with Preliminary Injunction before the Regional Trial Court, Branch 9, Palo, Leyte, which was docketed as Civil Case No. 89-01-005.

Felipe, in his Answer,¹⁷ argued in this wise: (a) when Romana died, she was survived by Felipe and Angeles; (b) Angeles died without issue, and her nearest kin was Felipe; (c) Rosello was neither a natural nor adoptive child of the spouses Vicente and Angeles, but was merely taken in by the latter to their household out of pity; (d) the Deed of Donation executed by Angeles in favor of Rosello was spurious; and (e) on January 30, 1989, the estate of the Spouses Engao was settled in Special Proceeding No. 1425.

The Felipe heirs manifested in their separate Answer¹⁸ that they agreed to partition the subject properties among themselves and Rosello. The Deed of Adjudication in 1982 was cancelled and superseded by an Extrajudicial Settlement¹⁹ in 1985 where they, together with Rosello, affixed their

⁹ Records, p. 23.

¹⁰ Id. at 25.

¹¹ Id. at 26.

¹² Id. at 22.

¹³ Id. at 24.

¹⁴ Id. at 258-259.

¹⁵ Id. at 260-261.

¹⁶ Supra note 7.

¹⁷ Records, pp. 42-46.

¹⁸ Id. at 56-63.

¹⁹ Id. at 89.

signatures in order to transfer and partition the subject properties among themselves. They insisted that either the Deed of Donation was a forgery or that the signature of Angeles was obtained through undue influence. They also claimed that there was impossibility of having the document notarized before a notary public in Tanauan, Leyte which was considerably remote from the location of Angeles who was frail and already too weak to travel such distance.

The Pre-Trial Order²⁰ limited the issues to the following:

1. Issues common to all parties:

- a) Whether or not the properties in question [were] owned by Spouses Cesario Engao and his wife Romana Engao or by Romana Engao and Anagles Engao Calignawan;
- b) Whether or not plaintiff is the only son and heir of Angeles Engao Calignawan;
- c) Whether or not the Deed of Donation executed by Angeles Calignawan in favor of plaintiff is valid;

2. Issues as between plaintiff and defendant Felipe Engao:

- a) Whether or not the ORDER of this Court declaring Felipe Engao the only heir of Cesario and Romana Engao and Angeles Engao and the adjudication of the properties including the properties in question to said Felipe Engao is already final and irrevocable thereby plaintiff is excluded of his right to claim interest and or ownership over the land in question.
- b) Whether or not plaintiff is liable to account in favor of defendant Felipe Engao the income and or fruits of the properties in the possession of plaintiff;

3. Issues as between plaintiff and defendants aside from Felipe Engao;

- a) Whether or not the documents subject in this case to be nullified are valid and with force and effect.²¹

The trial court noted that this suit had been shuffled and passed from one RTC branch to another until it was submitted for decision. Judge Rogelio C. Sescon of the RTC, Branch 9 of Tacloban City remarked that he had no opportunity to personally see the demeanor or hear the testimonies of the witnesses. Nonetheless, Judge Sescon assured that he would judiciously examine the transcript of stenographic notes, the pleadings and exhibits, and test the credibility based on common experience and observation of

²⁰ Id. at 167-169.

²¹ Id. at 168-169.

mankind.²² Notably, in arriving at its decision, the trial court iterated that it was guided by the issues as contained in the Pre-Trial Order,²³ the road map of the trial.²⁴

Ruling of the Regional Trial Court:

On December 16, 2009, the trial court promulgated its assailed Decision²⁵ holding that the subject properties are owned by Romana and Angeles, not by Romana and her spouse Cesario, on the strength of the certificates of title in their names, which were conclusive evidence of their ownership over the subject properties.²⁶

The RTC declared that Rosello was not a natural or an adoptive son and heir of Angeles after he was not able to tender any proof of filiation such as his birth certificate or any document showing that Vicente and Angeles are his parents. The trial court observed that Vicente pertained to a certain “Roly Calignawan” in his Individual Income Tax Returns in the years 1966 and 1969, a moniker which Rosello admitted to be his own, as his nephew and not as a son. Moreover, Rosello was not among the beneficiaries listed in the retirement insurance of Angeles. The trial court opined that a father would not refer to his son as his nephew, nor would a mother exclude her son as one of her beneficiaries. The trial court thus concluded that Rosello was not the son of Angeles, hence, he had no right to inherit from Angeles’ estate.²⁷

Moreover, the RTC adjudged the Deed of Donation executed by Angeles in favor of Rosello not valid for the following reasons: (a) Angeles was not physically fit to travel from Tacloban City to Tanauan, Leyte to swear before the notary public since she underwent operation and hospitalization in April and May 1984;²⁸ (b) Atty. Ildefonso Roa and his driver, who are both from Tolosa, Leyte, could not have witnessed and signed the Deed of Donation which was notarized in Tanauan, Leyte;²⁹ (c) petitioners were informed of the existence of said Deed of Donation only years after the death of Angeles;³⁰ and (d) Angeles’ signatures on the Designation of Beneficiary for Retirement Insurance in 1954 and on the Deed of Donation in 1984 still appeared identical despite the passage of time and aging of Angeles, which raised serious doubts as to the latter document’s authenticity. The trial court

²² *Rollo*, pp. 127.

²³ *Supra* note 20.

²⁴ *Rollo*, p. 128.

²⁵ *Supra* note 3.

²⁶ *Rollo*, pp. 128-129.

²⁷ *Id.* at 129.

²⁸ *Id.* at 129-130.

²⁹ *Id.* at 130.

³⁰ *Id.*

ratiocinated that age and illness would create changes in the signature of a person, thus:

The firm and sure strokes become shaky and tentative. In these two documents, there is no showing of an appreciable change in Angeles Calignawan's signature from 1954 when she signed the Designation of Beneficiary to 1984 or more than thirty years later when she allegedly signed the Deed of Donation. There is likewise no indication that the person who affixed the signature has just been operated on and was suffering from sickness.³¹

To the trial court, these factors overcame the legal presumption of due execution in favor of a document acknowledged before a notary public. Hence, it concluded that the Deed of Donation was not executed by Angeles, and was thus null and void.³²

Fourth, the trial court further held that the Order declaring Felipe as the only heir of the Spouses Engao and adjudicating the properties in his favor could not bind the trial court which had the duty to make its own independent determination and absent satisfactory evidence for it to adopt said Order.³³

The trial court also ruled that the Deed of Adjudication³⁴ and the Deed of Consolidation³⁵ were null and void since they had already been superseded by the Extrajudicial Settlement and they pertained to future inheritance. The Extrajudicial Settlement³⁶ was likewise declared void as it was meant to correct the Deeds of Adjudication and Consolidation which were invalid by express provision of law. Moreover, the trial court observed that the persons named in the settlement did not appear before the notary public since their community tax certificates were the same certificates used in the Deed of Adjudication and the Deed of Consolidation. Consequently, the other documents arising from these void documents, particularly the certificates of title and tax declarations, were also void and without legal effect. The trial court ordered the certificates of title in the names of Romana and Angeles be reinstated instead.³⁷

Lastly, the trial court settled the shares of the parties.³⁸ Upon Romana's death, Felipe inherited one-fourth of the subject properties while three-fourths pertained to Angeles.³⁹ Upon Angeles' death, her estate was inherited by

³¹ Id.

³² Id.

³³ *Rollo*, pp. 130-131.

³⁴ *Supra* note 14.

³⁵ *Supra* note 15.

³⁶ *Supra* note 19.

³⁷ *Rollo*, p. 131.

³⁸ Id. at 132.

³⁹ Citing CIVIL CODE, Article 980.

Felipe, her brother and sole heir.⁴⁰ But since Felipe had died already, petitioners had to partition Felipe's estate among themselves which already included the portions he inherited from Romana and Angeles.⁴¹

The trial court recognized the *de facto* partition of the subject properties among petitioners because they have already taken possession over certain portions of the subject properties and exercised acts of ownership over the same. Said partition should be respected and be no longer disturbed unless the same would be prejudicial to the petitioners.⁴² Other claims such as damages and accounting of the income and fruits were denied as these were not proven.⁴³

The *fallo* of the trial court's decision reads:

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

1. The Deed of Donation (Exh. A) is hereby declared null and void and of no legal effect;

2. Plaintiff Rosello or Roselio Calignawan is hereby declared not a son, either natural or adoptive, of the Spouses Vicente and Angeles Calignawan;

3. Plaintiff is hereby ordered to vacate the portions of the subject properties he is occupying by virtue of the Deed of Donation and/or his claim as heir of Angeles Engao-Calignawan and he is further ordered to surrender the same to the defendants;

4. The Deed of Adjudication of the Estate of Deceased Persons (Exh. S; Exh. 3), Deed of Consolidation and Subdivision of Real Properties (Exh. T; Exh. 4) and Extra-Judicial Settlement (Exh. W; Exh. 5 or Annex 1 of Answer) are declared null and void and of no legal effect and the Application for Approval of A Simple Subdivision Project (Exh. U; Exh. 27), Vicinity Map (Exh. V; Exh. 28) and Sketch Plan (Exh. V-1; Exh. 28-a) are annulled and of no legal effect;

5. The following certificates of title and tax declarations are annulled and rendered of no legal effect; TCT No. T-26415 (Exh. N; Exh. 22), TCT No. T-26416 (Exh. O; Exh. 23), TCT No. T-24617 (Exh. P; Exh. 24), TCT No. T-26418 (Exh. Q, Exh. 25), TCT No. T-26419 (Exh. R; Exh. 26), Tax Declaration No. 29419 (Exh. I; Exh. 17), Tax Declaration No. 29420 (Exh. J; Exh. 18), Tax Declaration No. 29421 (Exh. K; Exh. 19), Tax Declaration No. 29422 (Exh. L; Exh. 20) and Tax Declaration No. 29423 (Exh. M; Exh. 21);

6. The following certificates of title and tax declarations in the names of Romana Engao and Angeles Calignawan are reinstated: TCT No. T-1051 (Exh.

⁴⁰ Citing CIVIL CODE, Articles 1003 and 1004.

⁴¹ Citing CIVIL CODE, Articles 979 and 980.

⁴² Supra note 38.

⁴³ *Rollo*, pp. 131-132.

B; Exh. 11), TCT No. 1084 (Exh. C; Exh. 12), Tax Declaration No. 26286 (Exh. E; Exh. 14) and Tax Declaration No. 26285 (Exh. F; Exh. 15);

7. Defendants are directed to submit a project of partition of the subject properties, taking into consideration and respecting the de-facto partition, unless any of them is prejudiced thereby, failing which the provisions of Rule 69 of the Rules of Court would apply;

8. The other claims of the parties are hereby dismissed for lack of evidence.

SO ORDERED.⁴⁴

Aggrieved, Rosello filed a Notice of Appeal and eventually the Appellant's Brief⁴⁵ which challenged the trial court's decision. Rosello primarily contended that the trial court erred in declaring the Deed of Donation as null and void.

Ruling of the Court of Appeals:

In its January 18, 2018 Decision,⁴⁶ the CA primarily held that the Deed of Adjudication,⁴⁷ the Deed of Consolidation,⁴⁸ and the Extrajudicial Settlement⁴⁹ are null and void. On the other hand, it held as valid the Deed of Donation⁵⁰ that was executed in favor of Rosello. As to the procedural issues, the appellate court clarified that Rosello's belated filing of the Appellant's Brief⁵¹ was admitted in its July 19, 2017 Resolution⁵² and that Rosello did not commit forum-shopping.

The appellate court anchored the nullity of said documents on the well-entrenched principle of law that contracts involving future inheritance are void, citing Article 1347 of the New Civil Code.⁵³ First, the Deed of Adjudication was executed in 1982 in favor of Rosello, Evangeline, Erma, Felicitation, and Cesar, although Felipe and Angeles, who were the ones entitled to the estate of their late mother, Romana, were still alive. Second, the Deed of Consolidation involving the properties enumerated in the Deed of Adjudication suffered the same infirmity. Third, the Extrajudicial Settlement executed for the purpose of correcting the prior documents was likewise void.

⁴⁴ Id. at 132-133.

⁴⁵ CA *rollo*, pp. 203-214.

⁴⁶ *Rollo*, pp. 64-80.

⁴⁷ Records, pp. 258-259.

⁴⁸ Id. at 260-261.

⁴⁹ Id. at 89.

⁵⁰ Id. at 33-35.

⁵¹ CA *rollo*, pp. 203-214.

⁵² Id. at 279-283.

⁵³ ARTICLE 1347. All things which are not outside the commerce of men, including future things, may be the object of a contract. All rights which are not intransmissible may also be the object of contracts. No contract may be entered into upon future inheritance except in cases expressly authorized by law.

x x x x.

Concomitantly, the issuance of the certificates of title and tax declarations that resulted in the cancellation of the names of Romana and Angeles and which arose from the documents declared as void conferred no right to the parties named therein.

On the other hand, the appellate court held the Deed of Donation in favor of Rosello to be valid following this Court's pronouncement in G.R. No. 188676 entitled *Heirs of Felipe Engao, Namely: Erma E. Trocino, Felicitacion E. Bautista, Cesar Engao and Evangeline E. Asis vs. Rosello Calignawan (Heirs of Felipe Engao)* which had already attained finality per the Resolution dated February 15, 2010.⁵⁴ The appellate court stressed that Section 47, Rule 39 of the Rules of Court pertaining to *res judicata* governs. The principle of conclusiveness of judgment, which requires identity of parties and issues, is particularly applicable in this case. The appellate court compared the case of *Heirs of Felipe Engao* with the instant case, as follows:

There is identity of parties in both cases. All the parties in the instant case were also the parties in Civil Case No. B-461. Although the defendant in Civil Case No. B-461 was Felipe, upon his death, he was substituted by his heirs. Hence, there is here identity of parties.

There is also identity of issues in both cases.

The genuineness of the subject Deed of Donation was put in issue in Civil Case No. B-461. This was a case filed by Rosello against the heirs of Felipe for ownership, possession and accounting of seven (7) of the properties enumerated in the Deed of Donation. Rosello banked on the Deed of Donation to support his claim over the said properties. The instant case, on the other hand, involves the three (3) other properties also listed therein. Although what are questioned herein are the validity of the Deed of Adjudication and the Deed of Consolidation, he raised that he has a right also to the properties by virtue of the Deed of Donation. Hence, the adjudication of validity of the said deed in Civil Case No. B-461 constitutes *res judicata* in this case. x x x.⁵⁵

The similarity as to parties and issues in the case of *Heirs of Felipe Engao* with the instant case led the appellate court to hold that the decree of this Court as to the validity of the Deed of Donation is already binding and conclusive in this present case.

Lastly, the appellate court found that Rosello did not commit forum-shopping when he failed to disclose the pendency of Civil Case No. B-92-10-461, filed with the RTC of Burauen, Leyte, after the Amended Complaint was filed and then decided by the RTC of Tacloban City. Such issue became irrelevant when the pendency of the case reached the RTC of Tacloban City's knowledge. Moreover, there was a difference between the causes of action of

⁵⁴ CA rollo, p. 271.

⁵⁵ Rollo, p. 75.

the two cases. The cause of action in Civil Case No. B-92-10-461 was for ownership and possession and accounting of seven properties owned by Angeles which were in the possession of Felipe, whereas the instant case called for the nullification of the aforesaid documents conveying the properties of Angeles and Romana. In light of equity and justice, the appellate court found it best to adjudicate the case which had long been under inquiry and review so as to put an end to the controversy rather than rule on mere technicalities of law or Rosello's failure to disclose the pending case.

The dispositive portion of the appellate court's Decision reads:

WHEREFORE, the Appeal is GRANTED. The Decision dated 16 December 2009 of the Regional Trial Court, Branch [9], Tacloban City in Civil Case No. 89-01-005, is REVERSED and SET ASIDE. The Court RESOLVES to:

1) DECLARE:

a) the Deed of Donation as valid;

b) Rosello Calignawan and the heirs of Felipe as co-owners of Lot Nos. 581, 2064, and 5604-A-6. Rosello Calignawan is the owner of the three-fourth ($\frac{3}{4}$) portion, while the remaining one-fourth ($\frac{1}{4}$) portion shall pertain to the heirs of Felipe;

c) the Deed of Adjudication of the Estate of the deceased Persons, Deed of Consolidation and Subdivision of Real Properties, the Extra-Judicial Settlement, TCT No. T-26415, TCT No. T-26416, TCT No. T-24617, TCT No. T-26418, TCT No. T-26419, Tax Declaration No. 29419, Tax Declaration No. 29420, Tax Declaration No. 29421, Tax Declaration No. 29422, and Tax Declaration No. 29423, as null and void;

2) ORDER:

a) CANCELLATION of TCT No. T-26415, TCT No. T-26416, TCT No. T-24617, TCT No. T-26418, TCT No. T-26419, Tax Declaration No. 29419, Tax Declaration No. 29420, Tax Declaration No. 29421, Tax Declaration No. 29422, and Tax Declaration No. 29423;

b) REINSTATEMENT of TCT No. T-1051, TCT No. 1084, Tax Declaration No. 26286, and Tax Declaration No. 26285 in the name of Angeles E. Calignawan and Romana V. Engao;

c) REMAND the case to the Regional Trial Court, Branch 9, Tacloban City;

d) EXECUTION by the parties of the proper project of partition, within a period of sixty (60) days from receipt hereof, and SUBMIT the same to the court *a quo* for approval. In case the parties cannot come up with the required project of partition within the period above-stated, the Regional Trial Court, Branch 9, Tacloban City is DIRECTED to immediately CONSTITUTE and

APPOINT the commissioners as provided under Section 3, Rules 69 of the Rules of Court, to effect the partition in accordance with Our ruling.

SO ORDERED.⁵⁶

This turn of events propelled the petitioners to file the instant Petition for Review.⁵⁷

Issues:

For resolution of this Court are four issues, *viz.*:

A.

ROSELLO CALIGNAWAN, RESPONDENTS' PRECEDESSOR, SPLIT HIS CAUSE OF ACTION BY FILING TWO SEPARATE COMPLAINTS BEFORE TWO DIFFERENT REGIONAL TRIAL COURTS, THUS:

1. x x x;

2. x x x.

PETITIONERS RESPECTFULLY SUBMIT THAT RESPONDENTS' PREDECESSOR COMMITTED WILFUL (*sic*) FORUM-SHOPPING AND THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS LEGAL ERROR IN RULING OTHERWISE.

B.

CIVIL CASE NO. 89-01-005 WAS FILED BY ROSELLO CALIGNAWAN ON JANUARY 10, 1989 BEFORE THE REGIONAL TRIAL COURT, BRANCH 9, TACLOBAN CITY, AND DECIDED ON DECEMBER 16, 2009. CIVIL CASE NO. B-92-10-461 WAS FILED BY ROSELLO CALIGNAWAN ON OCTOBER 28, 1992 BEFORE THE REGIONAL TRIAL COURT, BRANCH 15, BURAUEN, LEYTE, AND DECIDED ON SEPTEMBER 10, 1998. PETITIONERS RESPECTFULLY SUBMIT THAT EACH COURT WAS SUPREME IN ITS OWN JURISDICTION, NO DECISION TOOK PRECEDENCE OVER THE OTHER, AND THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS LEGAL ERROR IN SUBSUMING THE DECISION OF THE RTC TACLOBAN TO THAT OF THE RTC BURAUEN.

C.

PETITIONERS RESPECTFULLY SUBMIT THAT RESPONDENTS ARE ESTOPPED FROM CHALLENGING THE EXERCISE OF JURISDICTION BY THE HONORABLE REGIONAL TRIAL COURT, BRANCH 9, TACLOBAN CITY, AFTER THEIR PREDECESSOR FILED TWO SEPARATE COMPLAINTS BASED ON THE SAME CAUSE AND THEY CANNOT INVOKE THEIR PRECEDESSOR'S VIOLATION OF THE RULES FOR THEIR BENEFIT.

⁵⁶ Id. at 78-80.

⁵⁷ Id. at 11-61.

D.

PETITIONERS RESPECTFULLY SUBMIT THAT THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS LEGAL ERROR IN EXERCISING UNWARRA[N]TED LIBERALITY AND BENDING THE RULES OF PROCEDURE WHEN IT ADM[IT]TED RESPONDENTS' APPELLANTS' BRIEF DESPITE THE EXPIRATION OF THE TIME TO FILE BRIEF WITHOUT RESPONDENTS FILING THEIR BRIEF OR AT LEAST A MOTION FOR EXTENSION OF TIME.⁵⁸

Our Ruling

The petition is bereft of merit.

As to Procedural rules: Forum-shopping, and the liberality of the appellate court in admitting the belated filing of Appellant's Brief.

Petitioners aver that Rosello, herein respondents' predecessor, committed forum-shopping by splitting his cause of action when he filed separate complaints, namely Civil Case No. 89-01-005⁵⁹ for Declaration of Nullity of Documents, Partition and Damages with Preliminary Injunction (Complaint for Declaration of Nullity) before the RTC of Palo, Leyte, which was then decided by the RTC of Tacloban City, and Civil Case No. B-92-10-461⁶⁰ for Ownership and Possession of Property with Accounting and Damages (Complaint for Recovery of Ownership) before the RTC of Burauen, Leyte (RTC of Burauen). Petitioners argue that these cases involved a similar cause of action, centered on the same issue (validity of the Deed of Donation), and required the presentation of the same evidence, i.e., (the Deed of Donation).⁶¹

Respondents counter that Rosello did not split his cause of action since the said complaints were distinct from each other. One was for declaration of nullity of documents while the other was for recovery of ownership and possession. There was also variance in the reliefs prayed for in the complaints. What is more, petitioners raised the issue of forum-shopping for the first time on appeal before the CA. Respondents argue that this issue should have been raised at the earliest opportunity such as in a motion to dismiss before the trial court, yet, petitioners actively submitted and participated in the proceedings before the RTC of Burauen.⁶²

Petitioners reply that the Complaint for Recovery of Ownership falls under the exception wherein an action may be dismissed on the ground of

⁵⁸ Id. at 36-37.

⁵⁹ Id. at 94-103.

⁶⁰ Id. at 134-140.

⁶¹ Id. at 38-41.

⁶² Id. at 187-190.

forum-shopping even if the same was invoked for the first time on appeal. According to petitioners, dismissal may be allowed when the pendency of another action involving the same parties for the same cause would result. Despite the fact that said issue was not raised in the Complaint for Recovery of Ownership, the same may still be assigned in the instant case.⁶³

We rule for the respondents. While the observation of petitioners as to Rosello's commission of forum-shopping is correct, raising said issue on appeal is already too late in the day. Jurisprudence is replete with pronouncements as to the elements of forum-shopping.⁶⁴

First, there must be identity of parties. Both petitioners and respondents or their predecessors were the contending parties in the Complaints for Declaration of Nullity and Recovery of Ownership.

Second, there must be similarity of rights asserted and reliefs prayed for, where the relief is anchored on the same facts. While the caption of both complaints are evidently distinct, the allegations contained in their respective bodies seek a similar relief, that is, the entitlement to the properties and reconveyance thereof in favor of Rosello and eventually to the respondents who are the latter's heirs. It is a hornbook doctrine that the cause of action is determined by the allegations of the complaint and not the caption or designation by the parties, considering that the latter is not even indispensable to the complaint.⁶⁵

Third, the judgment rendered in any of the actions would amount to *res judicata* as to the other. The finality of the Decision rendered by the RTC of Burauen, as affirmed by the appellate court and which subsequently reached this Court in G.R. No. 188676 entitled *Heirs of Felipe Engao, Namely: Erma E. Trocino, Felicitacion E. Bausita, Cesar Engao and Evangeline E. Asis vs. Rosello Calignawan*, operated as *res judicata* on the matter of the Deed of Donation's validity.

Since the three elements are attendant in this case, Rosello indeed committed forum-shopping.

The argument that the properties are located outside Tacloban City and are thus outside the jurisdiction of the RTC of Tacloban City cannot be appreciated. Venue is the geographical location where suits are brought while jurisdiction is conferred by law. Despite the variance in the wordings of the reliefs, both complaints actually sought for reconveyance. In such a case, the properties situated in a certain location may be part of the suit involving

⁶³ Id. at 217-222.

⁶⁴ See, e.g. *Dela Rosa Liner, Inc. v. Borela*, 765 Phil. 258 (2015).

⁶⁵ *Aguilar v. O'Pallick*, 715 Phil. 443, 453 (2013), citing *Mansalud vs. National Housing Authority*, 595 Phil. 750 (2005).

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properties located in a another place. Otherwise, it would result in the splitting of the cause of action and forum-shopping, as it did in this case.

The fact that Rosello may have committed forum-shopping should not have escaped petitioners' attention in order for them to take appropriate action. However, petitioners opted to actively participate in the proceedings before the RTC of Burauen instead of raising the issue of forum-shopping in their answer or in a motion to dismiss. This issue was only raised on appeal. Pursuant to Section 1, Rule 9 of the Rules of Court, defenses and objections are deemed waived when they are not pleaded in the answer or in a motion to dismiss. Even more, reason dictates that dismissing this case on the basis of forum-shopping would only leave contrasting decisions of the RTC of Tacloban and the RTC of Burauen which had already attained finality. Hence, it is high time to finally resolve the controversy in this long-standing saga since the 1980s.

On another point, petitioners contend that the appellate court exercised unwarranted liberality in the application of procedural rules in favor of respondents when it admitted the belated filing of the Appellant's Brief despite several motions for extension of time and absent any compelling reason to grant the same.⁶⁶ Conversely, respondents emphasized that their previous counsel was reckless and grossly negligent in the handling of the case, even though Rosello religiously sought update and follow-ups from said counsel.⁶⁷ Nonetheless, petitioners iterate that the text messages which showed that Rosello conducted follow-ups were made after the lapse of several motions of extension of time.⁶⁸

Section 12, Rule 44 of the Rules of Court expressly provides:

SECTION 12. *Extension of Time for Filing Briefs.* — Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended.

In *Levi Strauss & Co v. Blancaflor*⁶⁹ (*Blancaflor*), this Court enunciated that motions for extension of time are not granted as a matter of right but are left to the sound discretion of the court. For one, there must be a good and sufficient cause as required by said provision, or a compelling reason as case laws explain, in order that a request for time may be granted. Following *Blancaflor*, the determination of whether or not the reason forwarded by the

⁶⁶ *Rollo*, pp. 50-53.

⁶⁷ *Id.* at 195-196.

⁶⁸ *Id.* at 226-227.

⁶⁹ 785 Phil. 560 (2016), citing *Cosmo Entertainment Management, Inc. v. La Ville Commercial Corporation*, 480 Phil. 575 (2004).

movant is compelling enough should be left to the sound discretion of the court.

The Court is well aware that the appellate court issued a Resolution⁷⁰ dated July 19, 2017 which extensively discussed its reasons for granting and admitting the belatedly filed appellant's brief. The CA essentially found that the counsel for respondents was grossly negligent in handling the affairs of the latter who should not be prejudiced by the same. The appellate court further stressed the necessity to finally resolve this aged case on the merits rather than be governed by the strict technicalities of the law and deny the admission of the Appellant's Brief.

We uphold the findings of the appellate court. We regard the discretion exercised by the appellate court with respect. The reasons proffered for the several motions for extension, in particular, the withdrawal of respondents' counsel due to his gross negligence,⁷¹ were satisfactory as to justify the relaxation of the rules of procedure. In civil cases, courts may be inclined to observe liberality in applying the technical rules if only to afford a complete resolution of the case. What is important is to serve the interests of justice, fair play and equity, and not just to merely bow down to the procedural aspects of law. Hence, the appellate court's liberality was not uncalled for considering that there was a justifiable reason for it.

The finality of RTC of Burauen's decision constitutes *res judicata* in the instant case.

Petitioners assert that the jurisdiction of the RTC of Tacloban to determine the validity of the Deed of Donation continued until its rendition of judgment or the termination of the case on December 16, 2009. Rosello's act of filing the Complaint for Recovery of Ownership before the RTC of Burauen was an interference with the RTC of Tacloban City's exercise of jurisdiction. Since the RTC of Tacloban City assumed jurisdiction prior to RTC of Burauen, the former should take precedence in resolving whether or not the Deed of Donation was valid in light of the doctrine of non-interference. Hence, the RTC of Tacloban City's adjudication that the Deed of Donation is void should be upheld.⁷²

Respondents, on the other hand, maintain that affirming the Decision of RTC of Tacloban City would have the effect of impeaching the correctness of the RTC of Burauen's Decision which had already attained finality and immutability. Moreover, the Decision of the RTC of Burauen upholding the

⁷⁰ CA rollo, pp. 279-283.

⁷¹ Id. at 188-191.

⁷² Rollo, pp. 44-48.

validity of the Deed of Donation was affirmed by the CA in its November 13, 2007 Decision⁷³ and this Court in its Resolution dated February 15, 2010⁷⁴ which denied with finality the petitioners' motion for reconsideration and ordered the issuance of an entry of judgment in G.R. No. 188676 entitled *Heirs of Felipe Engao, Namely: Erma E. Trocino, Felicitacion E. Bautista, Cesar Engao and Evangeline E. Asis vs. Rosello Calignawan*. Consequently, the appellate court correctly held that there was already *res judicata* by conclusiveness of judgment.⁷⁵

Petitioners, however, insist that *res judicata* is inapplicable since the RTC of Tacloban City had rendered its Decision on December 16, 2009, before the Decision of the RTC of Burauen attained finality on April 8, 2010. They further argue that respondents are estopped in assailing the jurisdiction of the RTC of Tacloban City because the decision of the RTC of Burauen should have been presented before the latter rendered its Decision. It was only when the Decision of the RTC of Tacloban City was adverse to them that they raised said issue.⁷⁶

Simply put, the findings of the RTC of Tacloban City and the appellate court as to the validity of the Deed of Donation, involved the same issue which was already resolved with finality by the RTC of Burauen. Contrary to the contention of petitioners, *res judicata* by conclusiveness of judgment is availing in this case. *Taar v. Lawan*⁷⁷ (*Taar*) clarified that this second concept of *res judicata* requires identity of issues, hence, it is also known as preclusion of issues. *Taar* is also instructive as to the elements of *res judicata*, viz.:

Parties invoking the application of *res judicata* must establish the following elements:

- (1) the judgment sought to bar the new action must be final;
- (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties;
- (3) the disposition of the case must be a judgment on the merits; and
- (4) there must be as between the first and second action identity of parties, subject matter, and causes of action.⁷⁸

⁷³ CA *rollo*, pp. 255-270. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Antonio L. Villamor and Amy C. Lazaro-Javier, (now a Member of this Court).

⁷⁴ *Supra* note 54.

⁷⁵ *Rollo*, pp. 191-194.

⁷⁶ *Id.* at 224-226.

⁷⁷ 820 Phil. 49 (2017), citing *Tan v. Court of Appeals*, 415 Phil. 675, 681-682 (2001).

⁷⁸ *Taar v. Lawan*, 820 Phil. 49 (2017), citing *Club Filipino, Inc. v. Bautista*, 750 Phil. 599, 618 (2015).

These four elements are present in this case. First, the decision of the RTC of Burauen had already attained finality by virtue of the Resolution⁷⁹ of this Court denying petitioners' motion for reconsideration with finality. Second, said RTC of Burauen acquired jurisdiction over the lots which were outside Tacloban City as well as jurisdiction over the parties when Rosello filed his Complaint for Recovery of Ownership and when petitioners voluntarily submitted themselves to the court's authority by filing their answer and actively participating in the proceedings thereon. Third, the disposition of the RTC of Burauen as to the validity of the Deed of Donation was based on the merits as it comprehensively considered the evidence and testimonies which pointed to the document's validity. It settled the issue of the alleged forgery and the ownership of Angeles in said Decision.⁸⁰ Lastly, both the Complaints for Declaration of Nullity and Recovery of Ownership involved the petitioners and respondents or their predecessors at the outset and had similar causes of action as previously mentioned during the discussion of the issue of forum-shopping. *Monterona v. Coca-Cola Bottlers Philippines, Inc.*⁸¹ relevantly holds that:

Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies, whether or not the claim, demand, purpose, or subject matter of the two actions is the same.⁸² (Emphasis supplied)

In this case, We recognize the immutability of the RTC of Burauen's Decision especially when it adjudicated a matter on the merits, which is also an issue in this case. By the operation of *res judicata* in the concept of conclusiveness of judgment, We hold that the Deed of Donation is valid.

We will not tolerate or turn a blind eye to the procedural lapses committed in the course of the proceedings especially by litigants, their counsel, and members of the bar who are expected to be adept in these matters. This Court mandates adherence to technical rules which serve as the blueprint of an orderly and speedy administration of justice. Nonetheless, when the circumstances necessitate and in the interest of substantial justice, courts may relax these procedural rules and be liberal in their application if only to finally settle the issues on the merits.

WHEREFORE, the Petition is **DENIED**. The assailed January 18, 2018 Decision of the Court of Appeals in CA-G.R. CEB-CV No. 03573 is **AFFIRMED in toto**.


⁷⁹ Supra note 54.

⁸⁰ *Rollo*, pp. 141-150; penned by Judge Leocadio H. Ramos, Jr.

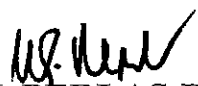
⁸¹ G.R. No. 209116, January 14, 2019.


⁸² *Id.*, citing *Oropeza Marketing Corporation v. Allied Banking Corporation*, 441 Phil. 551, 564 (2002).


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

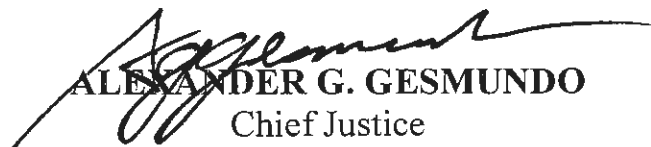
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior 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.


ALEXANDER G. GESMUNDO
Chief Justice