

Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

**HEIRS OF HERMINIO
 MARQUEZ, represented by
 ALMA MARIE MARQUEZ,**
Petitioners,

G.R. No. 236826


Present:

- versus -

PERLAS-BERNABE, S.A.J.,**
 HERNANDO,
 Acting Chairperson,***
 ZALAMEDA,
 ROSARIO, and
 MARQUEZ, JJ.

**HEIRS OF EPIFANIA M.
 HERNANDEZ, represented by
 LOURDES H. TIONSON,***
Respondents.

Promulgated:

MAR 23 2022 

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DECISION

HERNANDO, J.:

Before the Court is a petition for review on *certiorari*¹ filed by petitioners Heirs of Herminio Marquez, represented by Alma Marie Marquez (Marquez), seeking to reverse and set aside the September 22, 2017 Decision² and January 19, 2018 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 107241, which affirmed with modifications the January 28, 2016 Decision⁴ and June 14, 2016 Resolution⁵ of the Regional Trial Court (RTC), Branch 10, Malolos City, Bulacan, in Civil Case No. 780-M-2000.

* Also spelled as Tiongson in some parts of the records.

** On official leave.

*** Per Special Order No. 2882 dated March 17, 2022.

¹ Under Rule 45 of the Revised Rules of Court; *rollo*, pp. 13-43.

² *Rollo*, pp. 71-unpaginated. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Carmelita Salandanan Manahan and Maria Elisa Sempio Diy.

³ Id. at 94-96.

⁴ Id. at 48-64. Penned by Presiding Judge Corazon A. Domingo-Rañola.

⁵ Id. at 65-70.

The Factual Antecedents:

As narrated by the CA in the assailed Decision and based on the records of the case, the essential facts and antecedent proceedings of the case are as follows:

The instant case stemmed from a complaint⁶ for specific performance with damages filed by herein respondents Heirs of Epifania M. Hernandez; namely, Lourdes Hernandez-Tiongson, Hernando H. Hernandez, Gliceria Hernandez-De Dios, Remedios Hernandez-Castro, Dionisia Hernandez-Panopio, Aurora Hernandez-Pascual, and Oscar M. Hernandez (collectively, respondents), on November 21, 2000 against Herminio Marquez (Herminio). In their amended complaint,⁷ respondents impleaded herein petitioner Marquez.

Respondents are the children and legal heirs of Epifania Hernandez (Epifania). Since 1955, respondents and Epifania have been occupying a parcel of land located in Matungao, Bulacan with an area of 200 square meters (subject property). The subject property forms part of a 1,417-square meter property previously owned by the spouses Anastacio and Lourdes Sakay (spouses Sakay), and spouses Godofredo and Florsita Cruz (spouses Cruz). Epifania and respondents had built their house on the subject property with the consent and tolerance of its previous owners.⁸

In 1967, the spouses Sakay and the spouses Cruz sold the 1,417-square meter property to Herminio.⁹

In 1985, Herminio sold to Epifania the 200-square meter portion of the land on which her house was built for ₱400.00 per square meter. In view of this sale agreement, Epifania supposedly undertook to pay Herminio the total price of the subject property within the year of its purchase, or sometime before the end of 1985. In the event that Epifania failed to comply with the terms, the sale agreement would be considered or treated as a lease contract, and the amounts paid by Epifania would be treated as rentals or advances to Herminio under a continuing lease of the subject property.¹⁰

Epifania made an initial payment to Herminio in the amount of ₱2,000.00 as evidenced by a provisional receipt¹¹ dated October 23, 1985 signed by Herminio, which states:

⁶ Records, pp. 1-5.

⁷ Id. at. 64-69.

⁸ *Rollo*, p. 72.

⁹ Id.

¹⁰ Id. at 73.

¹¹ Records, p. 491.

Tinanggap ko kay Gng. Epifania M. Hernandez ang halagang (P2,000) dalawang libong piso bilang paunang bayad sa loteng kanyang kinatatayuan, ngayong 23 October 1985 (Ang bawat metro ay P400).¹²

Epifania then made payment by way of installment to Herminio by depositing certain amounts of money in a joint account between them with the Rural Bank of Del Pilar, Inc. Epifania also paid Herminio through various Metrobank Checks all of which were in the amounts of ₱500.00 each.¹³ According to respondents, Epifania was able to pay in full the agreed purchase for the subject property before her death on July 28, 1995.

Sometime in March 2000, respondents executed an Extrajudicial Settlement of the Heirs of Epifania Hernandez¹⁴ which stated, in part, that the proceeds of the joint savings account of their mother and Herminio with the Rural Bank of Del Pilar, Inc. shall be considered as full payment for the subject property. Notably, Herminio signified his conformity to the above-quoted provision in the said extrajudicial settlement between respondents by affixing his signature thereon.¹⁵

Subsequently, the Rural Bank of Del Pilar, Inc. ceased operations. After processing the deposit insurance claim with the Philippine Deposit Insurance Corporation (PDIC), a check in the amount of ₱61,429.87 was released by PDIC, which was received by Herminio on June 16, 2000.¹⁶

Meanwhile, on December 15, 1999¹⁷ and July 17, 2000,¹⁸ respondents received from Marquez demand letters to vacate the premises of the subject property. It appears that on August 4, 1994, Marquez and Herminio executed an Extrajudicial Settlement of Estate with Waiver of Rights¹⁹ whereby Herminio waived all his rights, interest and participation over the 1,417-square meter property in favor of Marquez.

Despite respondents' demands, Herminio allegedly refused to execute a deed of absolute sale over the subject property in favor of Epifania. Thus, respondents' complaint for specific performance against Herminio.

Marquez, being the registered owner of the 1,417-square meter property, which is covered by Transfer Certificate of Title No. (TCT) T-81516,²⁰ respondents filed an amended complaint²¹ impleading Marquez as a defendant.

¹² Id.

¹³ Id. at 492-513.

¹⁴ Id. at 516-517.

¹⁵ *Rollo*, p. 73.

¹⁶ *Records*, p. 515.

¹⁷ Id. at 444.

¹⁸ Id. at 445.

¹⁹ Id. at 431-432.

²⁰ Id. at 67.

²¹ Id. at 64-69.

In the said amended complaint, respondents prayed that judgment be rendered directing Herminio and Marquez to cause the execution of a deed of absolute sale for the subject property in favor of respondents and that title over the subject property be transferred to their names.

In his answer,²² Herminio argued that when Epifania reneged on her obligation to complete payment of the purchase price in 1985, their initial agreement became one of lease, and not a contract of sale. He also averred that he is not the real-party in interest as the title over the 1,417-square meter property was already transferred to Marquez as early as 1996.

Marquez, for her part, alleged in her answer²³ that Epifania did not make any subsequent payments after her initial payment of ₱2,000.00 to Herminio. Moreover, all amounts accepted by Herminio from Epifania are considered as rental payments for the use and occupancy of the subject property.

Meanwhile, Herminio died and was substituted by his heir, herein petitioner.

Ruling of the Regional Trial Court:

After trial on the merits, the RTC, on January 28, 2016, rendered a Decision²⁴ in favor of respondents declaring as valid the sale between Herminio and Epifania, and directing Marquez to cause the partition of the 1,417-square meter property described and covered under TCT No. T-81516 so as to give full effect of the contract of sale between Herminio and Epifania. The RTC also directed the Register of Deeds of Guiguinto, Bulacan, after the said partition, to cause the cancellation of TCT No. T-81516, and issue separate titles in the names of Epifania and Marquez which should reflect their respective shares in the 1,417-square meter. The dispositive portion of the said Decision states:

WHEREFORE, premises considered, judgment is rendered in favor of the herein plaintiffs and against the defendant in this wise:

(1) Affirming as valid the contract of sale between Herminio Marquez and Epifania Hernandez affecting the portion of the parcel of land where the house of said Epifania Hernandez stands, specifically the 190 square meters portion thereof, more or less, which is now covered by Transfer Certificate of Titel No. T-81516, now registered in the name of defendant Alma Marie Marquez;

²² Id. at 26-32.

²³ Id. at 95-100.

²⁴ *Rollo*, pp. 48-64.

(2) Directing the parties herein, especially defendant Alma Marie Marquez, to cause the partition of the parcel of land particularly described and covered by Transfer Certificate of Title No. T-81516 to give full effect to the contract of sale between Herminio Marquez and Epifania Hernandez;

(3) Directing the Register of Deeds of Guiguinto, Bulacan, after the said partition, to cause the cancellation of TCT No. T-81516 and in lieu thereof, to issue separate titles in the name of Epifania Hernandez and Alma Marie Marquez, each reflecting their respective shares in the subject property;

(4) Directing defendants Alma Marie Marquez to pay plaintiffs herein the amount of Twenty Thousand Pesos (P20,000.00) as and by way of attorney's fees.

No pronouncements as to costs.

SO ORDERED.²⁵

In so ruling, the RTC explained that the contract of sale between Epifania and Herminio was consummated when the latter accepted from the former the initial payment of P2,000.00. Moreover, when Herminio allowed Epifania and her children to occupy the subject property, it was from this point when ownership thereof was transferred from Herminio to Epifania.²⁶

The RTC also disregarded the contention of Marquez that the proceeds of joint account between Herminio and Epifania with Rural Bank of Del Pilar, Inc., which Herminio received are considered rental payments of Epifania for the use and occupancy of the subject property. In this regard, the RTC emphasized that to consider such payment as lease rentals would totally disregard the already consummated contract of sale between Herminio and Epifania. The RTC also explained that even if Epifania failed to pay the whole purchase price in 1985, this does not make inoperative the contract of sale, nor convert the same into a contract of lease between the parties.²⁷

The RTC also held that even if Herminio alienated a portion of the 1,417-square meter property without the consent of Marquez as a co-owner, this does not invalidate the sale since what is affected by the sale is only the proportionate share of Herminio.²⁸

Anent Marquez's contention that respondents are guilty of laches and estoppel, or that the action already prescribed when they failed to seasonably file the instant complaint against Herminio, the RTC held that since the amended complaint is one for quieting of title, the same does not prescribe against Epifania and her heirs who were in possession of the subject property.

²⁵ Id. at 77-78.

²⁶ Id. at 150-152.

²⁷ Id. at 153-154.

²⁸ Id. at 155-158.

Marquez filed a motion for reconsideration²⁹ of the said January 28, 2016 Decision but the same was denied by the RTC in a Resolution³⁰ dated June 14, 2016.

Aggrieved, Marquez appealed³¹ before the CA.

Ruling of the Court of Appeals:

In the assailed Decision,³² the CA denied the appeal for lack of merit. The dispositive portion of the assailed Decision reads:

WHEREFORE, the trial court's Decision dated January 28, 2016 and Resolution dated June 14, 2016 are affirmed, subject to the modification that the following paragraphs (2) and (3) of the dispositive portion of the Decision are hereby deleted:

“(2) Directing the parties herein, especially defendant Alma Marie Marquez, to cause the partition of the parcel of land particularly described and covered by Transfer Certificate of Title No. T-81516 to give full effect to the contract of sale between Herminio Marquez and Epifania Hernandez;

(3) Directing the Register of Deeds of Guiguinto, Bulacan, after the said partition, to cause the cancellation of TCT No. T-81516 and in lieu thereof, to issue separate titles in the name of Epifania Hernandez and Alma Marie Marquez, each reflecting their respective shares in the subject property;”

SO ORDERED.³³

The CA affirmed the findings of the RTC that the complaint filed by respondents is not for specific performance but one for quieting of title. The CA held that the Extrajudicial Settlement of Estate with Waiver of Rights executed by Herminio in favor of Marquez had the effect of casting a cloud on respondents' equitable title over the subject property.

The CA also held that respondents are not guilty of laches since their continuous and actual possession of the subject property have rendered their right to bring an action for quieting of title imprescriptible.

The CA also affirmed the findings of the RTC that a perfected contract of sale existed between Herminio and Epifania. The CA, however, held that the RTC had no jurisdiction to order the partition of the 1,417-square meter property between Epifania and Marquez since partition of real property is a special proceeding and not an ordinary civil action.

²⁹ Records, pp. 710-726.

³⁰ Id. at 746-751.

³¹ CA *rollo*, pp. 34-35.

³² *Rollo*, pp. 71-unpaginated.

³³ Id. at 92.

Aggrieved, Marquez moved for reconsideration,³⁴ which was, however, denied in a Resolution³⁵ dated January 19, 2018. Hence, this petition.

Issue

In the petition,³⁶ Marquez raised the following assignment of errors:

I.

JURISDICTION IS CONFERRED BASED ON THE ALLEGATIONS IN THE COMPLAINT. HENCE, THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT ALLOWED THE CONVERSION OF AN ACTION FOR SPECIFIC PERFORMANCE TO QUIETING OF TITLE DESPITE THE FACT THAT THERE IS NO ALLEGATION THAT WILL WARRANT QUIETING OF TITLE.

II.

ACTION PRESCRIBES IN TEN YEARS HENCE, THE LOWER COURT ERRED WHEN IT ALLOWED THE COMPLAINT TO BE GIVEN DUE COURSE DESPITE THE FACT THAT ELEVEN YEARS HAD LAPSED AND NO ACTION WAS FILED AGAINST THE APPELLANT.

III.

THE CONVERSION OF THE CASE OF SPECIFIC PERFORMANCE TO QUIETING OF TITLE IS A COLLATERAL ATTACK ON THE TITLE. HENCE, THE LOWER COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DECLARED AS VALID THE CONTRACT OF SALE AND DIRECTED APPELLANT TO CAUSE THE PARTITION OF THE TITLE.

IV.

THERE IS NO CONTRACT OF SALE BECAUSE THE ESSENTIAL ELEMENTS ARE NOT PRESENT. HENCE, THE LOWER COURT ERRED WHEN IT DISREGARDED THAT SALE OF REAL PROPERTIES MUST BE IN WRITING AND IN A PUBLIC INSTRUMENT.³⁷

In a Memorandum³⁸ filed with this Court, Marquez raised the following issues:

³⁴ Id. at 94.

³⁵ Id. at 94-96.

³⁶ Id. at 13-43.

³⁷ Id. at 24.

³⁸ Id. at 236-274.

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I.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT THAT THERE WAS A CONTRACT OF SALE BETWEEN EPIFANIA HERNANDEZ AND HERMINIO MARQUEZ OVER THE 200 SQUARE METER PORTION OF THE PROPERTY COVERED BY TRANSFER CERTIFICATE TITLE NO. T-81516.

II.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT THAT THE ACTION FILED BY RESPONDENTS HEIRS OF HERNANDEZ IS ONE FOR QUIETING OF TITLE.

III.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT THAT THE ACTION FILED BY RESPONDENTS HEIRS OF HERNANDEZ IS NOT BARRED BY LACHES.³⁹

Marquez maintains that no valid contract existed between Epifania and Herminio because at the time that Herminio sold the subject property to Epifania in 1985, the whole 1,417-square meter property (within which the subject property lies) was co-owned by Herminio and Marquez. Relying on *Cabrera v. Ysaac*⁴⁰ (*Cabrera*) Marquez argues that since Herminio failed to obtain her consent, as a co-owner of the 1,417-square meter property, to the sale of the subject property to Epifania, the sale agreement is considered void, and thus, cannot bind her as the property's current registered owner.

Marquez further argues that the evidence on record shows that she and Herminio did not give their consent to the sale of the subject property and its purchase price, which would have constituted the contract of sale.

There being no valid contract of sale, Marquez concludes that the continued occupation of Epifania and respondents of the subject property created a forced lease, which thus warranted the payment of rental fees. In this regard, all payments received by Herminio from Epifania are considered rental payments for the use and occupancy of the subject property.

Marquez also maintains that the CA erred in affirming the finding of the RTC that the complaint filed by respondents is one for quieting of title, and that the complaint filed by respondents is not barred by prescription and laches.

³⁹ Id. at 246-247.

⁴⁰ 747 Phil. 187, 193 (2014).

Our Ruling

The Court resolves to deny the petition.

An examination of the issues raised by Marquez in her petition including her memorandum readily reveals that the same are a mere rehash of the basic issues raised before the RTC and the CA, and which were already exhaustively passed upon and duly resolved by the lower courts. Moreover, this Court observes that Marquez failed to show that the factual findings of the RTC and the CA were not supported by evidence, or that their decisions were contrary to applicable law and jurisprudence.

Marquez also raises various factual issues which require a review of the evidence on record. These are clearly beyond the Court's jurisdiction under the present petition. On this point, it bears stressing that "this Court is not a trier of facts, and it is not its function to re-examine and weigh anew the respective evidence of the parties,"⁴¹ more so in this case where the findings of the RTC coincide with those of the CA.

There was a valid contract of sale between Herminio and Epifania.

At any rate, this Court is in accord with the findings of the RTC and CA that there exists a perfected contract of sale between Epifania and Herminio based on the following pieces of evidence:

First, the October 23, 1985 provisional receipt signed by Herminio wherein he stated that he acknowledged receipt from Epifania Hernandez the amount of ₱2,000.00 as initial payment for the subject property; *second*, the checks issued to Herminio as partial payments for the subject property; *third*, the acknowledgment receipt dated July 16, 2000 from the PDIC stating that Herminio received from the PDIC a Landbank of the Philippines (LBP) Check No. 97969 in the amount of ₱61,429.87 as payment of insured deposit from his Rural Bank of Del Pilar, Inc. joint savings account with Epifania; and *fourth*, the Extra-Judicial Settlement of the Heirs of Epifania stating that the proceeds of the joint savings account served as full payment from Epifania of the subject property, which was conformed to and signed by Herminio.

Notably, respondents have been consistent in raising the aforementioned factual evidence before the RTC and the CA. They also maintained the theory that Herminio sold the subject property to Epifania, and that their mother paid the purchase price in full before her death in 1995. In fact, there is evidence to

⁴¹ *Cortez v. Cortez*, G.R. No. 224638, April 10, 2019.

prove the existence of the sale agreement between Herminio and Epifania by virtue of the *Extra-Judicial Settlement of the Heirs of Epifania Hernandez*, which, as stated above, was signed by and conformed to by Herminio. The pertinent portions of the said documents read:

3. The said deceased (Epifania Hernandez), at the time of her death, left a joint savings account with the Rural Bank of Del Pilar, Inc. with business address in Bulacan, Bulacan in the amount of fifty-six thousand eight hundred twenty-nine pesos and ninety-five centavos (Php56,829.95), Philippine currency, under Savings Account No. SA-14082. Her co-depositor is Herminio Marquez;

4. The proceeds of said joint savings account is full payment for the land bought by our mother from Herminio Marquez. This arrangement was agreed upon by our mother and said Herminio Marquez during the former's lifetime. Said land is located in Matunago, Bulacan, Bulacan.⁴²

Marquez, on the other hand, failed to question the document's authenticity, including the contents thereof and due execution. The Court is thus inclined to, as it does, give credence to respondents' assertion that a sale agreement was entered into by Herminio and Epifania involving the subject property.

Taking all the pieces of evidence together, there is no doubt that both Herminio and Epifania intended to, and did in fact, enter into a contract of sale of the subject property.

We also agree with the findings of the RTC that the contract of sale was consummated even before Epifania made full payment of the purchase price, and that Herminio transferred ownership over the said property when he allowed Epifania and respondents to continue their occupation thereon consequent to the execution of the agreement. In this regard, the RTC held, to wit:

In the case at bar, the parties' contract was consummated when Herminio accepted the initial payment of P2,000.00 from Epifania on **October 23, 1985**. Too, Herminio transferred his ownership over the questioned portion of the property when he allowed Epifania and her heirs to continue their occupation thereof consequent to their agreement. Ownership of the thing sold shall be transferred to the vendee upon the actual or constructive delivery thereof. The thing is understood as delivered when it is placed in the control and possession of the vendee. Ergo, and even assuming, for the sake of argument that there is no full satisfaction of the stipulated purchase price, the actual turn-over of the possession of the property renders the contract consummated, albeit partially. This is true since the payment of the purchase price is not essential to the transfer of ownership as long as the property sold has been delivered; and such delivery (traditio) operated to divest the vendor of title to the property which may not be regained or recovered until and unless the contract is resolved or rescinded in accordance with law.

⁴² Records, p. 516.

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Consequently, when Herminio allowed Epifania to occupy the subject property, he **voluntarily relinquished** whatever claim he has over the real property, particularly over the piece of land where Epifania built her house. It was from that point when the ownership over the subject property was transferred from Herminio to Epifania. This is notwithstanding that he only received a partial payment of P2,000.00 from Epifania that time since it is the operative act of “delivery” which gives rise to the conveyance of ownership over an immovable property.⁴³

Marquez argues that the sale agreement is void since, at the time the same was executed, Herminio failed to obtain her consent as co-owner of the property.

We find this argument untenable. This Court is aware of its pronouncement in *Cabrera*⁴⁴ that “[a] contract of sale which purports to sell a specific or definite portion of unpartitioned land is null and void ab initio.”⁴⁵ *Cabrera* involved a sale of a parcel of land between plaintiff and defendant, which at that time, was still held in common by fourteen (14) other individuals, including defendant therein as evidenced by the original certificate of title. Notably, despite the existence of the sale involving the said parcel of land, the plaintiff failed to present evidence that the defendant was authorized by his co-owners to sell the land. Thus, the Court ruled in this case that without the consent of his co-owners, defendant could not sell a *definite* portion of the co-owned property.

The Court’s pronouncement in *Cabrera* is instructive on this point, to wit:

The *undivided interest* of a co-owner is also referred to as the “ideal or abstract quota” or “proportionate share.” On the other hand, the *definite portion* of the land refers to specific metes and bounds of a co-owned property.

To illustrate, if a ten-hectare property is owned equally by ten co-owners, the undivided interest of a co-owner is one hectare. The definite portion of that interest is usually determined during judicial or extrajudicial partition. After partition, a definite portion of the property held in common is allocated to a specific co-owner. The co-ownership is dissolved and, in effect, each of the former co-owners is free to exercise autonomously the rights attached to his or her ownership over the definite portion of the land. It is crucial that the co-owners agree to which portion of the land goes to whom.

Hence, prior to partition, a sale of a definite portion of common property requires the consent of all co-owners because it operates to partition the land with respect to the co-owner selling his or her share. The co-owner or seller is already marking which portion should redound to his or her autonomous ownership upon future partition.⁴⁶

⁴³ *Rollo*, pp. 56-57.

⁴⁴ *Supra* note 40.

⁴⁵ *Id.* at 193.

⁴⁶ *Id.* at 206-207.

In other words, a co-owner cannot sell a definite portion of a land without the consent from his or her co-owners. This is based on the principle that a sale of a portion of the property is considered an alteration of the thing owned in common, and, therefore, requires the unanimous consent of the other co-owners.⁴⁷ Of course, the law allows a co-owner to alienate an *undivided interest* of the co-owned property.⁴⁸

Marquez points out that the contract of sale between Herminio and Epifania involved a definite portion of the 1,417-square meter property owned in common by Herminio and Marquez. Applying the Court's pronouncement in *Cabrera*, it would seem that the contract of sale between Herminio and Epifania is void and deemed legally nonexistent.

The ruling in *Cabrera*, however, does not apply to Marquez.

First, unlike in *Cabrera*, no evidence was adduced during trial to show that Marquez had no knowledge of, or disapproved the sale of the subject property to Epifania and respondents. In fact, all throughout the proceedings before the RTC and CA, Marquez made it known that she is aware that Epifania and respondents were occupying the subject property, and the existence of a sale agreement between Herminio and Epifania involving the said property. It even appears from the records that Marquez tolerated respondents' possession and occupation of the subject property. In fact, despite her knowledge of the said sale agreement, it was only on July 17, 2000, or 15 years after the same was executed in 1985, that Marquez demanded respondents to vacate the property.⁴⁹

Second, the parcel of land in *Cabrera*, on one hand, was held in common by various owners at the time the sale agreement was entered into by the plaintiff and respondent as evidenced by the original certificate of title covering the said property. On the other hand, in the instant case, the only evidence of co-ownership presented by Marquez is the Extra-Judicial Settlement of Estate with Waiver of Rights⁵⁰ executed by and between Herminio and Marquez on August 4, 1994, or nine years after the contract of sale was entered into by Herminio and Epifania.

⁴⁷ Article 491 of the Civil Code states, in part, that "[n]one of the co-owners shall, without the consent of the others, make alterations in the thing owned in common, even though benefits for all would result therefrom. x x x" See also *Cabrera v. Ysaac*, *supra*.

⁴⁸ Article 493 of the Civil Code states that "[e]ach 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.

⁴⁹ Records, pp. 444-445.

⁵⁰ *Id.* at 434-435.

Even if the 1,417-square meter property was owned in common by Herminio and Marquez, We hold that the sale of a definite portion thereof by Herminio to Epifania is entirely valid. This is because the moment Herminio pointed out the boundaries of the subject property, and Marquez made no objection thereto, there is, in effect a partial partition of the co-owned property. Accordingly, the sale of a definite portion thereof can no longer be questioned or assailed by Marquez. Our pronouncement in *Pamplona v. Moreto*⁵¹ 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.⁵²

It bears emphasis that Marquez does not, in fact, deny the existence of the contract of sale between Herminio and Epifania involving the subject property. Marquez has consistently argued before the RTC and CA that although a sale agreement existed between Herminio and Epifania, the sale between them was not consummated for failure on the part of Epifania to pay Herminio the purchase price in full before the end of 1985. In this regard, even if we suppose for the sake of argument that Epifania was in delay, or even defaulted in her contractual obligations, this does not denote that no contract of sale existed between the parties. To reiterate, ownership over the subject property was transferred from Herminio to Epifania in 1985. It was at this point that the sale between the parties was consummated. Accordingly, Herminio cannot unilaterally rescind or cancel the agreement, nor convert the same into a contract of lease by simply asserting it to be so. Nor can he unilaterally reclaim the property by merely asserting non-payment of the purchase price on the part of Epifania. It bears emphasis that non-payment of the purchase price of the subject property does not *ipso facto* nullify the contract of sale between the parties. In any event, the Court finds that the contract of sale was fully consummated when Herminio received from the PDIC the insured deposit in the amount of ₱61,429.87.

With the foregoing, there was concededly a consummated contract of sale between Herminio and Epifania involving the subject property. It follows, therefore, that when Herminio bequeathed his interest over the 1,417-square meter property in favor of Marquez by virtue of the Extrajudicial Settlement of Estate with Waiver of Rights, it is deemed to have excluded the portion of the property already sold by Herminio to Epifania.

⁵¹ 185 Phil. 556 (1980)

⁵² Id. at 564.

Respondents' complaint is not only for specific performance but also for quieting of title.

“The nature of an action is determined by the material allegations of the complaint and the character of the relief sought by plaintiff, and the law in effect when the action was filed irrespective of whether he is entitled to all or only some of such relief.”⁵³ Accordingly, the allegations in the amended complaint of respondents readily show that the complaint was not only for specific performance, but also for quieting of title. In this regard, for an action to quiet to prosper, two indispensable requisites must concur, namely: “(1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his[/her] title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.”⁵⁴

In the instant case, ownership over the subject property was transferred to Epifania as early as 1985 by virtue of its delivery by Herminio. Respondents, as heirs of Epifania, thus acquired an equitable title to the subject property. However, the Extrajudicial Settlement of Estate with Waiver of Rights presented by Marquez, which resulted in the issuance of TCT No. T-81516 in the latter's name, was casting a cloud on the said equitable title of respondents over the said property. It is for this reason that respondents filed the present action against petitioner to, once and for all, remove such cloud or to quiet the title.

Accordingly, it cannot be said that respondents are guilty of laches since their continuous actual possession of the subject property has rendered their right to bring an action for quieting of title imprescriptible. Moreover, it bears noting that Marquez's demand letters⁵⁵ to respondents to vacate the subject property were dated December 15, 1999 and July 17, 2000. Thus, it was only during these instances that respondents came to know that Marquez was claiming ownership over the property. Respondents then filed their complaint on November 21, 2000, while their amended complaint was filed on December 14, 2001. Clearly, laches has not yet set in against respondents. As correctly observed by the RTC:

In *catena* of cases, it has been held that an action for quieting of title does not prescribe against the person in actual possession of the disputed property.

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⁵³ *Heirs of Toring v. Heirs of Boquilaga*, 645 Phil. 518, 531 (2010).

⁵⁴ *Salvador v. Patricia, Inc.*, 799 Phil. 116, 134 (2016).

⁵⁵ Records, pp. 444-445.

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It was only on December 15, 1999, when plaintiffs received defendant Alma Marie's demand letter to vacate the premises. It was from that point when plaintiffs became aware of defendants' adverse claim of ownership over the entire subject parcel of land including the specific portion that they already own. Hence, from 1985 until 1999, plaintiffs have been in peaceful possession of the subject portion of the property and have the right to presume that everything is in order. Plaintiffs' right was "disturbed" only when the defendant demanded recovery of the possession of the property. The present action was filed on November 2000, or barely a year after plaintiffs received Alma Marie's demand letter.

Certainly, the present suit is one for quieting of title and thus, imprescriptible. Too, plaintiffs are not guilty of laches or estoppel considering that they instituted the present action immediately upon receipt of the knowledge of Alma Marie's claim over the subject premises.⁵⁶

Other matters:

Marquez believes that an action for quieting of title which involves a challenge to the validity of TCT No. T-81516 is a collateral attack to a certificate of title, which is prohibited by law.

An action is deemed an attack on a title "when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of an action or proceeding is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof."⁵⁷

To be clear, what cannot be collaterally attacked is the certificate of title, and not the title itself.⁵⁸ The certificate referred to is the document issued by the Register of Deeds known as the Transfer Certificate of Title or TCT. In contrast, the title referred to by law means ownership, which is represented by that document. Title as a concept of ownership should not be confused with the certificate of title evidencing such ownership.⁵⁹ In this case, what respondents are assailing is Marquez's *claim of ownership* over the subject property. In any event, placing a land under the Torrens system does not mean that ownership thereof can no longer be attacked or disputed. A certificate cannot always be considered as conclusive evidence of ownership.⁶⁰

⁵⁶ Rollo, pp. 62-63.

⁵⁷ *Mallillin, Jr. v. Castillo*, 389 Phil. 153 (2000), cited in *Caraan v. Court of Appeals*, 511 Phil. 162, 170 (2005).

⁵⁸ *Hi-Lon Manufacturing, Inc. v. Commission on Audit*, 815 Phil. 60, 85 (2017).

⁵⁹ Citing *Lachayan v. Samoy, Jr.*, 661 Phil. 307, 317 (2011)

⁶⁰ *Heirs of Tappa v. Heirs of Bacud*, 783 Phil. 536, 553 (2016), citing *Vda. De Figuracion v. Figuracion-Gerilla*, 703 Phil. 455, 469 (2013).

Even on the premise that respondents seek to invalidate TCT No. T-81516 in an action for quieting of title, said action is, in fact, not a collateral attack but a *direct* attack thereto since it is essential in such action that respondents show the invalidity of the deed which casts a cloud on their title over the subject property.⁶¹ In other words, a complaint for quieting of title does not amount to a collateral attack because at the heart of the action for quieting of title is the adjudication of the ownership of the disputed property and the consequent nullification of the questioned certificates of title, if so warranted by the circumstances of the case.⁶²

We do not agree, however, with the pronouncement of the CA that the RTC had no jurisdiction to order the partition of the 1,417-square meter property because partition of real property is a special proceeding which cannot be a subject of an ordinary civil action for quieting of title.

It bears noting that in its January 28, 2016 Decision, the RTC ordered the Register of Deeds to cause the cancellation of TCT No. T-81516 and issue separate titles in the name of Epifania and Marquez, each reflecting their respective shares in the 1,417-square meter property. In this regard, this Court is aware that it is improper for the RTC to order a partition of an estate in an action for quieting of title. This holds true when the co-owned property itself has not been judicially or extrajudicially partitioned by its co-owners.⁶³

However, in the instant case, as discussed above, there was already a *prior partial partition* of the 1,417-square meter property when at the time of the sale, Herminio pointed out the area and location of the 200 square meter portion sold by him to Epifania on which her house stands. This partition of the co-owned property, although partial, was created and later embodied in the Extra-Judicial Settlement of the Heirs of Epifania Hernandez. The RTC, therefore, did not err in issuing the abovementioned directives to the Register of Deeds as it merely upheld contract of sale between Herminio and Epifania, and reiterated the constituted partial partition of the 1,417-square meter property embodied in the Extra-Judicial Settlement of the Heirs of Epifania Hernandez.⁶⁴

Moreover, it bears emphasizing that the essential facts of the case for the determination of ownership and the title's validity are now before this Court.

⁶¹ *Filipinas Eslon Manufacturing Corp. v. Heirs of Llanes*, G.R. No. 194114, March 27, 2019.

⁶² *Roman Catholic Archbishop of San Fernando v. Soriano, Jr.*, 671 Phil. 308, 317 (2011).

⁶³ See *Alejandrino v. Court of Appeals*, 356 Phil. 851, 865 (1998) where this Court ruled that the trial court may not order partition of an estate in an action for quieting of title.

⁶⁴ See *Alejandrino v. Court of Appeals*, *id.*

Thus, to require the parties in this case to institute separate partition and/or cancellation proceedings would be unnecessarily circuitous and against the interest of justice.⁶⁵

Accordingly, well-settled is the rule that “one of the purposes for which courts are organized is to put an end to controversy in the determination of the respective rights of the contending parties. With the full knowledge that courts are not infallible, the litigants submit their respective claims for judgment, and they have a right at some time or another to have final judgment on which they can rely over a final disposition of the issue or issues submitted, and to know that there is an end to the litigation; otherwise, there would be no end to legal processes.”⁶⁶

WHEREFORE, the petition for review on *certiorari* is hereby **DENIED**. The September 22, 2017 Decision and January 19, 2018 Resolution of the Court of Appeals in CA-G.R. CV No. 107241 are **AFFIRMED** with **MODIFICATIONS**, as follows:

(1) Affirming as valid the contract of sale between Herminio Marquez and Epifania Hernandez affecting the portion of the parcel of land where the house of said Epifania Hernandez stands, specifically the 190-square-meter portion thereof, more or less, which is covered by Transfer Certificate of Title No. T-81516, now registered in the name of petitioner Alma Marie Marquez;

(2) Directing the parties herein, especially petitioner Alma Marie Marquez, to cause the partition of the parcel of land particularly described and covered by Transfer Certificate of Title No. T-81516 to give full effect to the contract of sale between Herminio Marquez and Epifania Hernandez;

(3) Directing the Register of Deeds of Guiguinto, Bulacan, after the said partition, to cause the cancellation of Transfer Certificate of Title No. T-81516 and in lieu thereof, to issue separate titles in the name of Epifania Hernandez and Alma Marie Marquez, each reflecting their respective shares in the 1,417-square meter property; and

(4) Directing petitioner Alma Marie Marquez to pay respondents herein the amount of ₱20,000.00 as and by way of attorney’s fees.

Costs on petitioner Alma Marie Marquez.

⁶⁵ *Leyson v. Bontuyan*, 492 Phil. 238, 257 (2005). See also *Pamplona v. Moreto*, supra note 51 at 566, where, in an action involving the nullification of a deed of sale, the trial court, as affirmed by this Court, ordered the Register of Deeds to: (1) segregate a specific portion of a co-owned property; and (2) issue a new certificate of title covering the said segregated area.

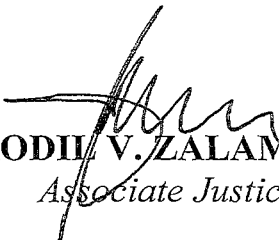
⁶⁶ *Heirs of Marasigan v. Marasigan*, 572 Phil. 190, 228 (2008).

SO ORDERED.

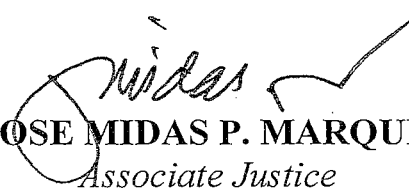

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice



RODIL V. ZALAMEDA
Associate Justice


RICARDO B. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
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.



RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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

