



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE HEIRS OF TEODORO* RIBAC
(deceased), REPRESENTED BY HIS
HEIRS AND ISSUES: AUGUSTINA,
MARIANO, VICTOR, REYNANTE,**
DAYLA, and ROSALIE, ALL
SURNAMED RIBAC,

Petitioners,

G.R. No. 249754

Present:

LEONEN, J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JJ.

- versus -

NARCISA RIBAC-PUTOLAN and
ANTONINA RIBAC-BLANCO,
Respondents.

Promulgated:

OCT 19 2022

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RESOLUTION

LOPEZ, J., J.:

For this Court's resolution is a Motion for Reconsideration¹ filed by the heirs of Teodoro Ribac, namely: Augustina, Mariano, Victor, Reynante, Dayla, and Rosalie Ribac (*heirs of Teodoro*), assailing this Court's Resolution² dated November 27, 2019. The said Resolution denied their petition for review on *certiorari* for failure to show any reversible error in the Decision³ and the Resolution⁴ of the Court of Appeals in CA-G.R. CV

* Also referred to as "Teodor" in some parts of the *rollo*.

** Also referred to as "Renante" in some parts of the *rollo*.

¹ *Rollo*, pp. 90-95.

² *Id.* at 88. (Minute Resolution.)

³ *Id.* at 25-49. The March 29, 2019 Decision was penned by Associate Justice Evalyn M. Arellano-Morales, and concurred in by Associate Justices Edgardo T. Lloren and Florencio M. Mamauag, Jr. of the Special Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

⁴ *Id.* at 51-55. The September 13, 2019 Resolution was penned by Associate Justice Evalyn M. Arellano-Morales, and concurred in by Associate Justices Edgardo T. Lloren and Florencio M. Mamauag, Jr. of the Former [Special] Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

No. 03548-MIN to warrant the exercise of this Court's discretionary appellate jurisdiction.

The Antecedents

Teodoro Ribac (*Teodoro*) was the registered owner of a parcel of agricultural land containing an area of 9.405 hectares (*subject property*) covered by Original Certificate of Title (*OCT*) No. P-10565, located in Poblacion, Magsaysay, Davao del Sur. The heirs of Teodoro claimed that they acquired it by virtue of a homestead patent and were issued the corresponding certificate of title.⁵ Teodoro predeceased his parents, Spouses Bartolome and Lucrecia Ribac (*Spouses Ribac*), on December 2, 1977.⁶

In July 1992, after the death of Lucrecia, Marciano Ribac, the eldest son of Spouses Ribac, called for a meeting attended by the heirs and siblings of Teodoro. Marciano allegedly proposed that the oral partition made by their parents during their lifetime be reduced into writing and that the properties allotted to them be surveyed so that each of them could have their respective titles over the portions assigned to them. However, it did not push through as no one was willing to shoulder the cost of the expenses.⁷

On October 18, 1994, the heirs of Teodoro, led by Conrado Manigque, husband of one of Teodoro's daughters, occupied one-half portion of the property and began constructing their houses. Thereafter, the heirs of Teodoro caused the cancellation of OCT No. P-10565 under the name of Teodoro, and another title was issued in their names.⁸

On November 24, 1994, the sisters of Teodoro, Narcisa Ribac-Putolan (*Narcisa*) and Antonina Ribac-Blanco (*Antonina*) filed a Complaint for Partition, Conveyance, Cancellation of Existing Title and Issuance of a New Title in Lieu Thereof, and Damages with Preliminary Mandatory Injunction against the heirs of Teodoro with Branch 21, Regional Trial Court, Bansalan, Davao del Sur.⁹ Narcisa and Antonina argued that Teodoro was merely holding the subject property in trust for the true owners, Spouses Ribac. They claimed that the properties of Spouses Ribac, including the subject property in dispute, were named after their three sons, namely: Marciano, Modesto, and Teodoro, leaving them without any property registered under their name.¹⁰ Narcisa and Antonina maintained that in 1960, their parents apportioned among their siblings the subject property and the three properties that were individually registered under the names of their

⁵ *Id.* at 6-7, 91.

⁶ *Id.* at 28.

⁷ *Id.*

⁸ *Id.* at 28, 60.

⁹ *Id.* at 7.

¹⁰ *Id.* at 7, 26-27.

three sons.¹¹ Narcisa claimed that she had introduced improvements in the area allocated to her by planting fruit trees, transforming 70% of the land area into irrigated rice land, and constructing a fish pond.¹²

During the trial, Narcisa and Antonina testified in open court and presented two witnesses to corroborate their claims. These were Genaro Dumayas (*Genaro*) and Juanito Pejeras (*Juanito*). On the other hand, for the heirs of Teodoro, only Mariano Ribac (*Mariano*), son of Teodoro, testified, as he was the lone witness and was presented by their counsel, Atty. Leonardo Suario (*Suario*).¹³

Meanwhile, the heirs of Teodoro contended that the property was owned by their deceased father, Teodoro, as evidenced by the certificate of title registered in his name. They also argued that it was Teodoro who possessed and cultivated the subject property during his lifetime, and that they continued the same after his death. They further averred that when their father died, they allowed Narcisa and Antonina to enter and work on the subject property with the agreement that they would give them shares in the harvests. However, when they stopped giving their shares, they got back the property in 1994. Mariano corroborated the claim of Teodoro's heirs.¹⁴

Incidentally, the heirs of Teodoro claimed that Atty. Suario failed thrice to comply with the orders of the Regional Trial Court instructing him to submit the formal offer of exhibits for the heirs of Teodoro. As a result, the Regional Trial Court issued an Order declaring the heirs of Teodoro to have waived their right to submit their formal offer of exhibits. While the case was pending in the Regional Trial Court, Atty. Suario died.¹⁵

On July 30, 2013, the Regional Trial Court rendered its Judgment,¹⁶ the dispositive portion of which reads:

WHEREFORE, considering all the foregoing, judgment is hereby rendered in favor of plaintiffs NARCISA RIBAC PUTOLAN and ANTONINA RIBAC BLANCO ordering:

- 1) Transfer Certificate of Title No. T-37200, which is a transfer from OCT No. 10565, CANCELLED. Plaintiffs Narcisa Ribac Putolan and Antonina Ribac Blanco are directed to cause a survey for determination of their respective areas, which is one half portion each of the area covered by the Original Certificate of Title No. P-10565. The Register of Deeds of Davao del Sur is ordered to

¹¹ *Id.* at 27.

¹² *Id.* at 27, 59.

¹³ *Id.* at 7, 64.

¹⁴ *Id.* at 28-29, 69.

¹⁵ *Id.* at 8.

¹⁶ *Id.* at 29.

ISSUE to Narcisa Ribac Putolan and Antonina Ribac Blanco the new titles in accordance with said survey, upon finality of this decision.

- 2) The Heirs of Teodoro Ribac to vacate the property covered by Transfer Certificate of Title No. T-37200 and surrender possession thereof to plaintiffs Narcisa Ribac Putolan and Antonina Ribac Blanco.

SO ORDERED.¹⁷

In its ruling, the Regional Trial Court was convinced that the subject property was merely held in trust by Teodoro for the other heirs of Spouses Ribac, especially his sisters.¹⁸ It held that the subsequent transfer of title in the names of the heirs of Teodoro is void.¹⁹ The Regional Trial Court added that Narcisa and Antonina's action for reconveyance of the subject property based on implied trust is not barred by the 10-year prescriptive period since they are in actual, continuous, and peaceful possession of the subject property.

On August 30, 2013, the new counsel of the heirs of Teodoro entered his appearance and sought a new trial.

However, the Regional Trial Court, through its Order,²⁰ denied the motion. In denying the motion, the Regional Trial Court explained that the heirs of Teodoro were afforded every opportunity to be heard.²¹ The Regional Trial Court also concluded that there is no merit in the claim that Atty. Suario was grossly negligent in handling the case of the heirs of Teodoro to merit a new trial.²²

On March 29, 2019, the Court of Appeals rendered its Decision²³ denying the appeal of the heirs of Teodoro.²⁴

The Court of Appeals found that Narcisa and Antonina were able to prove by preponderance of evidence that there existed an implied trust relative to the subject property. It further declared that Teodoro was not the owner of the subject land and was merely holding it for the benefit of Narcisa and Antonina. The Court of Appeals gave credence to the testimony of Narcisa, Genaro, and Juanito.²⁵ It added that the existence of an implied

¹⁷ *Id.* at 29, 57.

¹⁸ *Id.* at 69.

¹⁹ *Id.* at 30.

²⁰ *Id.* at 76-80. The December 27, 2013 Order was penned by Judge Loida S. Posadas-Kahulugan of Branch 21, Regional Trial Court, Bansalan, Davao del Sur.

²¹ *Id.*

²² *Id.* at 78-79.

²³ *Id.* at 25-48.

²⁴ *Id.* at 48.

²⁵ *Id.* at 31-39.

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trust may also be inferred from the acts of Teodoro during his lifetime. Furthermore, the Court of Appeals noted that despite the registration of the title under his name, he did not raise any objection when it was assigned to his sisters. He also did not protest after they occupied the property and introduced improvements.²⁶ For the Court of Appeals, the title registered in the name of Teodoro did not vest ownership and the lot upon him or his heirs as it was intended to be held by him in trust for his sisters.²⁷

Anent the issue of prescription, the Court of Appeals held that Narcisa and Antonina's right of action against the heirs of Teodoro is not barred by prescription. The Court of Appeals ruled that since what is involved is an implied resulting trust, the rule on imprescriptibly shall apply.²⁸

The Court of Appeals also agreed with the Regional Trial Court in holding that the alleged negligence of the counsel of the heirs of Teodoro cannot be considered as one which ordinary diligence could not have guarded against as there was no showing that they were maliciously deprived of information regarding their case.²⁹ The Court of Appeals concluded that Atty. Suario was not grossly negligent in handling the case and if he had committed lapses, it could not be considered as so serious, palpable, persuasive, and reckless for it to qualify as a valid ground for a new trial.³⁰

In a Resolution,³¹ the Court of Appeals denied the motion for reconsideration filed by the heirs of Teodoro.³²

In this Petition for Review on *Certiorari*,³³ the heirs of Teodoro argued that: (1) new trial is necessary because their former counsel was negligent in failing to present witnesses whose testimonies could have altered the decision of the court;³⁴ (2) Narcisa and Antonina failed to prove by preponderance of evidence that there is an implied trust;³⁵ (3) Narcisa and Antonina's cause of action against them had already prescribed;³⁶ and (4) the subject property was registered in the name of Teodoro pursuant to a homestead patent.³⁷

²⁶ *Id.* at 40-41.

²⁷ *Id.*

²⁸ *Id.* at 42-43.

²⁹ *Id.* at 44-45.

³⁰ *Id.* at 46-48.

³¹ *Id.* at 51-55.

³² *Id.* at 55.

³³ *Id.* at 4-21.

³⁴ *Id.* at 9-12.

³⁵ *Id.* at 16.

³⁶ *Id.* at 17-20.

³⁷ *Id.* at 20-21.

In the assailed Resolution³⁸ dated November 27, 2019, this Court denied the petition of the heirs of Teodoro for failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction.³⁹

In the present Motion for Reconsideration,⁴⁰ the heirs of Teodoro maintained that since the subject property was acquired by homestead patent, the awardee is required by law to occupy and cultivate the land for their benefit. Thus, no trust could be created as it would constitute a violation of the law granting homestead patents.⁴¹ They add that a trust will not be created when, for the purpose of evading the law prohibiting one from taking or holding real property, they take conveyance thereof in the name of a third person.⁴² They also lament that they were denied their day in court.⁴³ Further, they also insist that the Dead Person's Statute applies to the testimonies of Narcisa and Antonina against Teodoro, who had already passed when their testimonies were given in court.⁴⁴

In the Comment/Opposition⁴⁵ filed by Narcisa and Antonina, they averred that the issues raised in the motion for reconsideration were mere repetitions of the same arguments whose facts and circumstances were already addressed by the lower courts. They posit that the motion for reconsideration should be denied for failure to present any new or novel issue to warrant the exercise of this Court's discretionary authority to review the findings of the lower courts.⁴⁶

Issues

I.

Whether a new trial may be granted on the ground of gross inexcusable negligence of the previous counsel of the heirs of Teodoro;

II.

Whether the Dead Person's Statute may be applied, at this stage of the proceedings, in disqualifying the testimonies of Narcisa and Antonina with respect to matters occurring before Teodoro's death;

³⁸ *Id.* at 88.

³⁹ *Id.* at 83.

⁴⁰ *Id.* at 90-95.

⁴¹ *Id.* at 91.

⁴² *Id.*

⁴³ *Id.* at 92.

⁴⁴ *Id.* at 93.

⁴⁵ *Id.* at 100-101.

⁴⁶ *Id.* at 101.

III.

Whether this Court may take cognizance of issues raised for the first time on appeal; and

IV.

Whether the fact that Teodoro acquired the subject property through a homestead patent bars Narcisa and Antonina from claiming that there is an implied trust between them.

This Court's Ruling

The Motion for Reconsideration of petitioners is meritorious.

The purported gross negligence of petitioners' former counsel is not a sufficient ground to grant a new trial

Section 1, Rule 37 of the Rules of Court states:

SECTION 1. *Grounds of and Period for Filing Motion for New Trial or Reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

- (a) Fraud, accident, mistake or *excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights*[.] (Emphasis supplied)

Among the grounds for granting a new trial under Section 1, Rule 37 of the Rules of Court is excusable negligence. Petitioners posit that the gross negligence of their previous counsel, Atty. Suario, warrants a new trial as they had been deprived of their day in court.

It is settled that the negligence of a counsel binds the client as any act performed by a counsel within the scope of their general or implied authority is regarded as an act of their client.⁴⁷ As such, a mistake or negligence of counsel that results in the rendition of an unfavorable judgment against the

⁴⁷ *Multi-Trans Agency Phils., Inc. v. Oriental Assurance Corp.*, 608 Phil. 478, 493 (2009) [Per J. Chico-Nazario, Third Division].

client binds the latter.⁴⁸ Nevertheless, there are exceptions to the foregoing rule such as:

[W]here the reckless or gross negligence of counsel deprives the client of due process of law; or where the application of the rule will result in outright deprivation of the client's liberty or property; or where the interests of justice so requires and relief ought to be accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence. In order to apply the exceptions rather than the rule, the circumstances obtaining in each case must be looked into. In cases where one of the exceptions is present, the courts must step in and accord relief to a client who suffered thereby.⁴⁹

Here, petitioners' argument fails to impress. In praying for a new trial, petitioners argue that they were deprived of their day in court because their former counsel only presented one witness, which ultimately led to a judgment against them. The purported dereliction of duty of petitioners' previous counsel, by itself, is hardly sufficient to convince this Court that a new trial is justified. Mistake or lack of foresight of a party's counsel cannot be a ground to reopen the case. If every shortcoming of counsel would be considered a ground for new trial, this "would render court proceedings indefinite, tentative and subject to reopening at any time by the mere subterfuge of replacing counsel."⁵⁰

Petitioners are now barred from belatedly invoking the Dead Person's Statute to disqualify the testimonies of Narcisa and Antonina on matters concerning Teodoro that occurred prior to his death

As regards the argument of petitioners that respondents were disqualified from testifying on the purported implied trust arrangement they had with Teodoro on the ground that their testimonies violate the Dead Person's Statute, this Court disagrees.

The Dead Person's Statute, also known as the Survivorship Disqualification, is found in Section 23, Rule 130 of the Rules of Court. The provision states:

⁴⁸ *Id.*

⁴⁹ *Id.* 493-494.

⁵⁰ *Mendoza v. Court of Appeals*, 764 Phil. 53, 64 (2015) [Pcr J. Perez, First Division].

SECTION 23. *Disqualification by reason of death or insanity of adverse party.* – Parties or assignors of parties to a case, or persons in whose behalf a case is prosecuted, against an executor or administrator or other representative of a deceased person, or against a person of unsound mind, upon a claim or demand against the estate of such deceased person or against such person of unsound mind, cannot testify as to any matter of fact occurring before the death of such deceased person or before such person became of unsound mind.⁵¹

For the Dead Person's Statute to apply, the following elements must concur: (1) the defendant in the case is the executor or administrator or a representative of the deceased or the person of unsound mind; (2) the suit is upon a claim by the plaintiff against the estate of said deceased or person of unsound mind; (3) the witness is the plaintiff, or an assignor of that party, or a person in whose behalf the case is prosecuted; and (4) the subject of the testimony is as to any matter of fact occurring before the death of such deceased person or before such person became of unsound mind.⁵²

The Dead Person's Statute is intended to benefit the estate of the deceased or insane person. Thus, the protection it provides may be waived by: (1) failing to object to the testimony; or (2) by cross-examining the witness on the prohibited testimony; or (3) offering evidence to rebut the testimony.⁵³

In *Maunlad Savings & Loan Assoc., Inc. v. Court of Appeals*,⁵⁴ this Court held that:

The rule is that *objections to evidence must be made as soon as the grounds therefor become reasonably apparent.* In the case of testimonial evidence, the *objection must be made when the objectionable question is asked or after the answer is given if the objectionable features become apparent only by reason of such answer, otherwise the objection is waived* and such evidence will form part of the records of the case as competent and complete evidence and all parties are thus amenable to any favorable

⁵¹ The 2019 Proposed Amendments to the Revised Rules on Evidence (2019 Amendments) took effect on May 1, 2020 and shall cover (i) all cases filed after the said date; and, (ii) all pending proceedings except to the extent that, in the opinion of the court, their application would not be feasible or would work injustice.

Section 23, Rule 130 of the Rules is now found in Section 39, Rule 130 of the 2019 Amendments states:

SECTION 39. *Statement of decedent or person of unsound mind.* – In an action against an executor or administrator or other representative of a deceased person, or against a person of unsound mind, upon a claim or demand against the estate of such deceased person or against such person of unsound mind, where a party or assignor of a party or a person in whose behalf a case is prosecuted testifies on a matter of fact occurring before the death of the deceased person or before the person became of unsound mind, any statement of the deceased or the person of unsound mind, may be received in evidence if the statement was made upon the personal knowledge of the deceased or the person of unsound mind at a time when the matter had been recently perceived by him or her and while his or her recollection was clear. Such statement, however, is inadmissible if made under circumstances indicating its lack of trustworthiness.

⁵² Willard B. Riano, *Evidence*, pp. 258-259 (2009).

⁵³ *Id.* at 264.

⁵⁴ 399 Phil. 590 (2000) [Per J. De León, Jr., Second Division].

or unfavorable effects resulting from the evidence.⁵⁵ (Citations omitted, emphasis supplied)

In the present case, petitioners failed to timely object to the respective testimonies of respondents concerning matters that occurred prior to Teodoro's death. The former counsel of petitioners failed to object to the testimonies of respondents when the questions relating to the purported trust arrangement were asked. Hence, petitioners may no longer invoke the Dead Person's Statute to disqualify their testimonies.

Nonetheless, it is settled that the admissibility of evidence does not necessarily mean that it may be accorded weight. In *Mancol v. Development Bank of the Philippines*,⁵⁶ this Court stressed that:

Admissibility of evidence should not be confounded with its probative value.

"The admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade." The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving at a decision as to the truth. The weight of evidence is not determined mathematically by the numerical superiority of the witnesses testifying to a given fact, but depends upon its practical effect in inducing belief on the part of the judge trying the case. "Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue." "Thus, *a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.*"⁵⁷ (Citations omitted, emphasis supplied)

Admissibility of evidence cannot be equated with the weight of evidence as these are entirely different concepts.⁵⁸ To admit evidence and not to believe it are not incompatible with each other.⁵⁹ The weight accorded to it still depends on the evaluation of the court in accordance with the Rules.

Here, while petitioners may no longer invoke the Dead Person's Statute to disqualify the testimonies of respondents, the evidentiary weight accorded to these and the capacity of these to induce belief may still vary based on the evaluation of the court

⁵⁵ *Id.* at 600.

⁵⁶ 821 Phil. 323 (2017) [Per J. Tijam, First Division].

⁵⁷ *Id.* at 335.

⁵⁸ *Calamba Steel Center, Inc. v. Commissioner of Internal Revenue*, 491 Phil. 23, 38 (2005) [Per J. Pangaliban, Third Division].

⁵⁹ *Supra* note 52; at 70.

This Court may take cognizance of the issue on the nature of Teodoro's acquisition of the subject property.

In the present case, petitioners primarily highlight the nature of Teodoro's acquisition of the subject property through a homestead patent that respondents claim is an argument raised only for the first time in petitioners' motion for a new trial filed in the Regional Trial Court.

In *Insular Life Assurance Co., Ltd. Employees' Association-NATU v. Insular Life Assurance Co., Ltd.*,⁶⁰ this Court recognized the broad discretion of this Court in taking cognizance of questions not particularly raised by the parties but falling within the issues already framed by the parties. This Court explained that:

[T]he Supreme Court has ample authority to review and resolve matters not assigned and specified as errors by either of the parties in the appeal *if it finds the consideration and determination of the same essential and indispensable in order to arrive at a just decision in the case.* This Court, thus, has the authority to waive the lack of proper assignment of errors if the unassigned errors closely relate to errors properly pinpointed out or if the unassigned errors refer to matters upon which the determination of the questions raised by the errors properly assigned depend.

The same also applies to issues not specifically raised by the parties. The Supreme Court, likewise, has broad discretionary powers, in the resolution of a controversy, to take into consideration matters on record which the parties fail to submit to the Court as specific questions for determination. Where the issues already raised also rest on other issues not specifically presented, as long as the latter issues bear relevance and close relation to the former and as long as they arise from matters on record, the Court has the authority to include them in its discussion of the controversy as well as to pass upon them. In brief, *in those cases wherein questions not particularly raised by the parties surface as necessary for the complete adjudication of the rights and obligations of the parties and such questions fall within the issues already framed by the parties, the interests of justice dictate that the Court consider and resolve them.*⁶¹ (Citations omitted, emphasis supplied)

Admittedly, the critical issue of whether Teodoro acquired the subject property through homestead patent was only explicitly raised for the first time in petitioners' motion for new trial filed in the Regional Trial Court. Nevertheless, it bears to stress that this issue was deemed included in the general claim of petitioners that Teodoro was not holding the property in trust for respondents. As the issue goes into the validity of Teodoro's

⁶⁰ 166 Phil. 505 (1977) [Per C.J. Castro, *En Banc*].

⁶¹ *Id.* at 518-519.

ownership and possession over the subject property during his lifetime, logically included in the argument of petitioners is the nature of Teodoro's acquisition over the same.

In the case of *De Romero v. Court of Appeals*,⁶² this Court ruled that no substantial evidence was presented to prove that a homestead patent awardee was merely holding the property in trust for the benefit of his siblings. This Court held that:

A trust is the legal relationship between a person having an equitable ownership in property and another person owning the legal title to such property, the equitable ownership of the former entitling him to performance of certain duties and the exercise of certain powers by the latter. Trust relations between parties may be express or implied. Express trusts are those which are created by the direct and positive acts of the parties, by some writing or deed, or will, or by words evidencing an intention to create a trust. Implied trusts are those which without being express, are deducible from the nature of the transaction as matters of intent, or which are superinduced on the transaction by operation of law as a matter of equity, independently of the particular intention of the parties. Implied trusts may either be resulting or constructive trusts, both coming into by operation of law.

Resulting trusts are based on the equitable doctrine that valuable consideration and not legal title determines the equitable title or interest and are presumed always to have been contemplated by the parties. They arise from the nature or circumstances of the consideration involved in a transaction whereby one person thereby becomes invested with legal title but is obligated in equity to hold his legal title for the benefit of another. On the other hand, constructive trusts are created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or hold the legal right to property, which he ought not, in equity and good conscience, to hold.

However, it has been held that a trust will not be created when, for the purpose of evading the law prohibiting one from taking or holding real property, he takes a conveyance thereof in the name of a third person.

In the present case, the petitioners did not present any evidence to prove the existence of the trust. Petitioners merely alleged that LUTERO, through fraudulent means, had the title of Lot 23 Pls-35 issued in his name contrary to the alleged agreement between the family that LUTERO would merely hold the lot in trust for the benefit of EUGENIO's heirs. The alleged agreement was not proven and *even assuming that the petitioners duly proved the existence of the trust, said trust would be of doubtful validity considering that it would promote a direct violation of the provisions of the Public Land Act as regards the acquisition of a homestead patent. A homestead applicant is required by law to occupy and cultivate the land for his own benefit, and not for the benefit of someone else.* Furthermore, under Section 12 of The Public Land Act (CA 141), a person is allowed to enter a homestead not exceeding twenty-four

⁶² 377 Phil. 189 (1999) [Per J. Gonzaga-Reyes, Third Division].

(24) hectares. In the present case, it is not disputed that EUGENIO already applied for a homestead patent for twenty-four (24) hectares of land and was disqualified from applying for an additional twelve (12) hectares. *If we uphold the theory of the petitioners and rule that a trust in fact existed, we would be abetting a circumvention of the statutory prohibitions stated under the Public Land Act.* We therefore find no legal or factual basis to sustain the contention of the petitioners that LUTERO merely held Lot 23 Pls-35 in trust for the benefit of the heirs of EUGENIO.⁶³ (Citations omitted, emphasis and underscoring supplied)

Here, if the argument of respondents that an implied trust was created between Teodoro and respondents were to be sustained, this Court would be condoning an outright circumvention of the Public Land Act.⁶⁴ Section 90(e) of Commonwealth Act No. 141 explicitly states:

SECTION 90. *Every application under the provisions of this Act shall be made under oath and shall set forth:*

(e) *That the application is made for the exclusive benefit of the application and not, either directly or indirectly, for the benefit of any other person or persons, corporation, association, or partnership.* (Emphasis supplied)

Upholding the finding that respondents were the rightful owners of the subject property contravenes the restriction imposed in Section 90(e) of Commonwealth Act No. 141 on the homestead awarded to Teodoro “since a homestead applicant is required to occupy and cultivate the land for [their] own and [their] family’s benefit, and not for the benefit of someone else.”⁶⁵ Therefore, no implied trust could have been created by the purported arrangement between Teodoro and respondents.

An application for a homestead patent “recognizes that the land belongs to the public domain” and “the public land has to be classified first as alienable and disposable through a positive act of the government” before it may be disposed.⁶⁶ In granting an application for a homestead patent, the law presupposes that the applicant had complied with the requirements and that the homestead applicant cultivated the land for their exclusive benefit. This finds support in Section 14 of Commonwealth Act No. 141 which states:

SECTION 14. No certificate shall be given or patent issued for the land applied for until at least one-fifth of the land has been improved and cultivated. The period within which the land shall be cultivated shall not be less than one or more than five years, from and after the date of the

⁶³ *Id.* at 199-201, citing *Kiel v. Estate of Sabert*, 46 Phil. 193, 196 (1924) [Per J. Malcolm].

⁶⁴ Commonwealth Act No. 141.

⁶⁵ *Heirs of Cadelina v. Cadiz*, 800 Phil. 668, 679 (2016) [Per J. Jardeleza, Third Division].

⁶⁶ *Republic of the Philippines v. Heirs of Ignacio Daquer*, 839 Phil. 548, 550 (2018) [Per J. Leonen, *En Banc*].

approval of the application. The applicant shall, within the said period, notify the Director of Lands as soon as he [or she] is ready to acquire the title. If at the date of such notice, the applicant shall prove to the satisfaction of the Director of Lands, that he [or she] has resided continuously for at least one year in the municipality in which the land is located, or in a municipality adjacent to the same, and has cultivated at least one-fifth of the land continuously since the approval of the application, and shall make affidavit that no part of said land has been alienated or encumbered, and that he [or she] has complied with all the requirements of this Act, then, upon the payment of five pesos, as final fee, he [or she] shall be entitled to a patent.

The foregoing provision mandates that a homestead applicant cultivate a specific portion of the subject of the application and continuously possess the same for a certain period in order to be entitled to the patent. If it is proven that Teodoro had dutifully complied with the requirements of the Commonwealth Act No. 141 and was validly awarded the homestead patent to the subject property, it follows that respondents are precluded from claiming that he merely held it in trust for his sisters. As such, this issue logically requires this Court to closely look into the nature of Teodoro's acquisition of the property.

In any case, the rule that issues raised for the first time on appeal may be entertained has exceptions. In *Del Rosario v. Bonga*,⁶⁷ this Court identified the following exceptions:

Though not raised below, the issue of lack of jurisdiction over the subject matter may be considered by the reviewing court, as it may be raised at any stage. The said court may also consider an issue not properly raised during trial when there is *plain error*. Likewise, it may entertain such arguments when there are jurisprudential developments affecting the issues, or when the issues raised present a matter of public policy.⁶⁸ (Citations omitted, emphasis supplied)

Here, it was plain error for the trial court not to consider the nature of Teodoro's acquisition. As discussed above, a finding that Teodoro validly acquired the subject property through a homestead patent has legal repercussions on the claim of respondents that cannot simply be overlooked for the sake of strictly applying procedural rules. Taking into consideration the probable plain error in the decision of the Regional Trial Court and the Court of Appeals, a speedy resolution of this case should not be pursued at the expense of rendering a fair and equitable judgment.

The case must be remanded to the court of origin in order to receive evidence on the claim

⁶⁷ 402 Phil. 949 (2001) [Per J. Panganiban, Third Division].

⁶⁸ *Id.* at 960.

of petitioners that Teodoro acquired the property through a homestead patent.

There is a reason for this Court to order a remand of the case specifically for the purpose of resolving Teodoro's alleged acquisition of the subject property through a homestead patent. Given that a determination cannot be made on the veracity of the claim of petitioners as to the nature of Teodoro's acquisition of the property due to the limited information available at this stage of the proceedings, this Court deems it a prudent and judicious course of action to remand the case to the court of origin to receive evidence solely on this issue.

In stressing the necessity of ordering a remand of the case to resolve this issue, this Court had already discussed the consequences of the nature of the acquisition of land through a homestead patent on the claim of respondents that Teodoro merely held the property for them. Higher interests in justice and equity demand that petitioners be allowed to present their evidence in support of their claim on this issue to avoid a situation wherein the parties are callously deprived of property without due process of law. Therefore, guided by this Court's discussion above, the court of origin, as the trier of facts, is now tasked to receive evidence on this particular claim of petitioners.

Be that as it may, this Court stresses that the liberal application of the rules is an exception rather than the general rule. This Court does not intend to undermine or brush aside the significance of imposing procedural rules meant to orderly dispense justice. Instead, this Court simply recognizes that, given the factual circumstances, in this case, there is a necessity to remand the case to the court of origin for the reception of evidence on the issue of whether Teodoro received the property through a homestead patent. In the interest of substantive justice, this Court finds that the liberal application of the Rules is justified and that petitioners should be given an opportunity to present their evidence on this issue during a trial on the merits to obviate jeopardizing substantive justice.

ACCORDINGLY, this Court **SETS ASIDE** the Resolution dated November 27, 2019. The case is **REMANDED** to Branch 21, Regional Trial Court, Bansalan, Davao del Sur for the reception of evidence and adjudication of the claim of petitioners heirs of Teodoro Ribac, namely: Augustina, Mariano, Victor, Reynante, Dayla, and Rosalie, all surnamed Ribac, that no implied trust could have been created because Teodoro Ribac acquired the subject property through a homestead patent.

SO ORDERED.




JHOSEP V. LOPEZ
Associate Justice

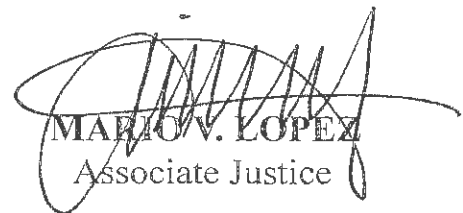
WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




MARIO V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION


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



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second 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 Resolution 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