



Republic of the Philippines
Supreme Court
Manila

Mis-ADC Batt
ANITA C. DOMINCO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

DEC 28 2017

THIRD DIVISION

**LOURDES J. ESTRELLADO;
THE HEIRS OF EUGENIO
ESTRELLADO, represented by
LOURDES J. ESTRELLADO;
NARCISA T. ESTRELLADO;
THE HEIRS OF NICOLAS
ESTRELLADO, represented by
CLARITA E. MAINAR;
PILAR E. BARREDO-FUENTES;
and THE HEIRS OF VIVINA
ESTRELLADO-BARREDO and
ALIPIO BARREDO, represented by
PILAR E. BARREDO-FUENTES,
Petitioners,**

G.R. No. 164482

- versus -

**THE PRESIDING JUDGE OF THE
MUNICIPAL TRIAL COURT IN
CITIES, 11TH JUDICIAL REGION,
BRANCH 3, DAVAO CITY; J.S.
FRANCISCO AND SONS, INC.,
represented by its PRESIDENT,
JOSELITO C. FRANCISCO; and
THE HEIRS OF DR. JOVITO S.
FRANCISCO, represented by
JOSELITO C. FRANCISCO,
Respondents.**

X-----X

**LOURDES C. FRANCISCO-
MADRAZO; ROMEO C.
FRANCISCO; CONCEPCION C.
FRANCISCO-GATCHALIAN;
and RENE JOSE C. FRANCISCO,
Petitioners,**

G.R. No. 211320

Present:

*VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.*

- versus -

**PILAR BARREDO-FUENTES;
JORGE BARREDO; OSCAR
BARREDO; RODOLFO BARREDO;
ERNESTO BARREDO; ARMANDO
BARREDO; DANILO BARREDO;
TERESITA BARREDO-MCMAHON;
LETICIA BARREDO-CUARIO; and
ESPERANZA BARREDO-TUL-ID,
Respondents.**

Promulgated:

November 8, 2017

Mis PDC Batt

X-----x

DECISION

BERSAMIN, J.:

A petition for the annulment of a judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered without jurisdiction or through extrinsic fraud. The remedy is not available as a recourse to obtain relief from a judgment that has long attained finality after having been passed upon and affirmed by the higher court on appeal taken in due course.

The Case

For consideration and resolution are the consolidated appeals by petition for review on *certiorari*, namely:

(a) **G.R. No. 164482**, the petitioners, namely: Lourdes J. Estrellado; the Heirs of Eugenio Estrellado, represented by Lourdes J. Estrellado; Narcisa T. Estrellado; the Heirs of Nicolas Estrellado, represented by Clarita E. Mainar; Pilar E. Barredo-Fuentes; and the Heirs of Vivina Estrellado-Barredo; and Alipio Barredo, represented by Pilar E. Barredo-Fuentes, assail the adverse decision rendered by the Regional Trial Court (RTC), Branch 13, in Davao City dismissing their petition for annulment of judgment;¹ and

(b) **G.R. No. 211320**, the petitioners, namely: Lourdes C. Francisco-Madrado, Romeo C. Francisco, Concepcion C. Francisco-Gatchalian, and Rene Jose C. Francisco, challenge the decision promulgated on March 14, 2013,² whereby the Court of Appeals (CA), in CA-G.R. CV No. 01727-MIN, reversed the decision of the Regional Trial Court (RTC), Branch 16, in Davao City rendered on October 20, 2008, and declared respondents Heirs

¹ *Rollo* (G.R. No. 164482), Vol. II, pp. 1207-1208; penned by Judge Isaac Robillo, Jr.

² *Rollo* (G.R. No. 211320), pp. 177-189; penned by Associate Justice Henri Paul B. Inting, concurred in by Associate Justice Edgardo T. Lloren and Associate Justice Jhosep Y. Lopez.

of the late Vivina Estrellado-Barredo and Alipio Barredo (namely: Pilar Barredo-Fuentes, Jorge Barredo, Oscar Barredo, Rodolfo Barredo, Ernesto Barredo, Armando Barredo, Danilo Barredo, Teresita Barredo-Mcmahon, Leticia Barredo-Cuario, and Esperanza Barredo-Tul-Id) the lawful owners and possessors of the property covered by Transfer Certificate of Title (TCT) No. T-19930 of the Registry of Deeds of Davao City.

Antecedents

These consolidated appeals originated from special civil actions for forcible entry involving three adjacent parcels of land.

The Spouses Eugenio and Lourdes Estrellado were the former owners of the parcel of land with an area of 15,465 square meters located in Barangay Matina-Aplaya, Davao City and covered by TCT No. T-19351 of the Registry of Deeds of Davao City. The Spouses and Nicolas and Narcisa Estrellado were the former owners of the parcel of land also located in Barangay Matina-Aplaya, Davao City with an area of 15,466 square meters and covered by TCT No. 19350 of the Registry of Deeds of Davao City. The late Spouses Alipio and Vivina Barredo were the former owners of the parcel of land containing an area of 15,465 square meters located in the same area and covered by TCT No. 19348 of the Registry of Deeds of Davao City. The landowners herein mentioned were related to one another either by consanguinity or by affinity.³

The petitioners in **G.R. No. 164482** are the successors-in-interest and heirs of the above-named landowners. The respondents in **G.R. No. 211320** are the heirs of the late Spouses Alipio and Vivina Barredo. For ease of reference, they are collectively referred herein as the Estrellados unless otherwise indicated.

Each of the three parcels of land herein mentioned was subdivided into two portions – the smaller portion containing 5,000 square meters, and the bigger portion with an area of about 10,465 square meters.

In September 1967, the Spouses Eugene and Lourdes Estrellado sold their 5,000-square meter lot for ₱10,000.00 to Dr. Jovito S. Francisco, the owner of J.S. Francisco & Sons, Inc. and the predecessor-in-interest of the respondents in **G.R. No. 164482** and petitioners in **G.R. No. 211320**. The sale was evidenced by a deed of absolute sale dated September 25, 1967.⁴

³ *Rollo* (G.R. No. 164482), Vol. II, p. 1242.

⁴ *Id.* at 1268-1270.

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The Spouses Nicolas and Narcisa Estrellado also sold their 5,000-square meter property to Dr. Francisco for ₱10,000.00 through the deed of absolute sale dated September 25, 1967.⁵

The late Spouses Alipio and Vivina Barredo likewise sold their 5,000-square meter lot to Dr. Francisco for ₱10,000.00 under the deed of absolute sale dated September 25, 1967.⁶

After selling the smaller lots to Dr. Francisco, the Estrellados separately sold the bigger portions of their respective lots to the latter on the following dates: the Spouses Eugene and Lourdes Estrellado on August 2, 1969; the Spouses Nicolas and Narcisa Estrellado on October 29, 1969; and the late Spouses Alipio and Vivina Barredo on June 10, 1970. Dr. Francisco and his successors-in-interest (collectively referred to as the Franciscos) immediately started their uninterrupted possession of the entire landholdings of the Estrellados in 1967. However, the Franciscos could not produce the formal deeds of sale relevant to the subsequent sales. They only had a book of accounts evidencing their installments to the Estrellados.⁷

The three bigger lots covered by TCT No. 19932, TCT No. 19930, and TCT No. 19928 of the Register of Deeds of Davao City became the subject of the three forcible entry cases commenced in the Municipal Trial Court in Cities in Davao City (MTCC) by J.S. Francisco & Sons, Inc. against the Estrellados on October 21, 1998⁸ (Civil Case No. 6,296-C-98, Civil Case No. 6,297-C-98, and Civil Case No. 6,298-C-98). The Estrellados, as the defendants in the three cases, denied selling the bigger lots to Dr. Francisco.

On April 26, 1999, the MTCC rendered judgment in favor of the Franciscos, and ordered the Estrellados, their successors-in-interest and other persons acting on their behalf to vacate the properties; to pay the Franciscos the fruits of the properties appropriated by the Estrellados; and to further pay the rent for the use of the properties, as well as attorney's fees, litigation expenses, and the costs of suit.⁹

On appeal, the RTC, Branch 12, in Davao City affirmed the MTCC's judgment on August 27, 1999.¹⁰

The Estrellados appealed to the CA.

⁵ Id. at 1272-1274.

⁶ Id. at 1276-1278.

⁷ *Rollo* (G.R. No. 164482), Vol. II, p. 1245.

⁸ Id. at 1508-1509.

⁹ *Rollo* (G.R. No. 164482), Vol. I, pp. 191, 197, and 204.

¹⁰ Id. at 825, 831, and 838.

By decision dated June 28, 2000,¹¹ and another decision dated January 24, 2003,¹² the CA dismissed the appeals and affirmed the decision of the RTC.¹³ Considering that the Estrellados did not thereafter appeal, the decisions of the CA became final and executory.¹⁴ On October 7, 2003, upon motion, the MTCC issued the writ of execution to enforce the judgment.¹⁵

G.R. No. 164482

The petitioners were some of the defendants and successors-in-interest in the already concluded forcible entry cases filed by J.S. Francisco & Sons, Inc. On December 15, 2003, they filed a petition for annulment of the judgments of the MTCC in the RTC in Davao City (docketed as Civil Case No. 30,111-03), alleging that they were victims of extrinsic fraud that had deprived them of the opportunity to fully present their defense in the MTCC that eventually cost them the case;¹⁶ that the MTCC had no jurisdiction over the forcible entry cases filed against them;¹⁷ and that they had valid, clear and current possessory rights over the disputed parcels of land.¹⁸

The respondents moved to dismiss the petition for annulment, submitting that the decisions of the MTCC were not the proper subjects of the petition for annulment due to their having been affirmed by the RTC and the CA; that the annulment of the decisions would be tantamount to vesting in the RTC the power to annul the decision of a co-equal branch, as well as the decision of a superior court like the CA;¹⁹ that the petition for annulment was barred by *res judicata*, *litis pendentia* and the rules prohibiting forum-shopping; that the MTCC had jurisdiction over the forcible entry cases because the issue involved prior *de facto* possession; and that not all of the petitioners for annulment had executed the certificate of non-forum shopping in violation of the *Rules of Court*.²⁰

On June 11, 2004, the RTC rendered judgment in Civil Case No. 30,111-03 dismissing the petition for annulment of judgment. It held that it had no jurisdiction over the petition for annulment inasmuch as the decision sought to be annulled had been affirmed on appeal by the RTC and the CA; that the petition for annulment was already barred by *res judicata*; and that the petitioners were guilty of forum-shopping. It disposed:

¹¹ Id. at 911-917; penned by Presiding Justice Salome A. Montoya, with the concurrence of Associate Justice Romeo J. Callejo Sr. (later a Member of the Court) and Associate Justice Martin S. Villarama Jr. (later a Member of the Court).

¹² Id. at 919-927; penned by Associate Justice Elvi John S. Asuncion, and concurred in by Associate Justice (later Presiding Justice) Conrado M. Vasquez Jr. and Associate Justice Sergio L. Pestaño.

¹³ *Rollo* (G.R. No. 164482), pp. 917 and 926-927.

¹⁴ *Rollo* (G.R. No. 211320), p. 15.

¹⁵ *Rollo* (G.R. No. 164482), Vol. I, p. 928.

¹⁶ Id. at 151.

¹⁷ Id. at 157.

¹⁸ Id. at 168.

¹⁹ Id. at 103.

²⁰ Id. at 114.

WHEREFORE, in view of the foregoing, this case is hereby **DISMISSED**.

The Motion of Private Respondents to cite counsels for petitioners have (sic) direct contempt, however, is **GRANTED**.

Petitioners' counsel is summarily found **GUILTY** of Direct Contempt and fined Five Hundred Pesos (₱500.00).

SO ORDERED.²¹

Hence, this appeal directly filed in this Court.

The main issue raised is whether an independent action for the annulment of the judgment of the MTCC filed in the RTC should be given due course. The ancillary issues are whether or not the remedy of annulment of judgment is available; and whether or not non-parties could file an action for the annulment of a final and executory judgment.

The petitioners submit that the judgment rendered in the forcible entry cases did not bind them because they had not been impleaded as parties therein; and that for the same reason the judgment could not be enforced against them without violating their rights as co-owners of the properties subject thereof.

G.R. No. 211320

The respondents were the children of the late Spouses Alipio and Vivina Barredo. They alleged their ownership of the parcel of land covered by TCT No. 19930 that had been the subject of one of the forcible entry cases decided against the Estrellados.

The respondents contended that the execution of the judgment rendered in the forcible entry case would violate their rights as the owners of the property; that they sought to recover all the attributes of their ownership and to erase the cloud over their title; and that, accordingly, they had brought the *accion reivindicatoria* and action for quieting of title in the RTC (Branch 16) in Davao City (Civil Case No. 29,759-03).²²

On October 20, 2008, the RTC (Branch 16), through Judge Emmanuel Carpio, rendered its decision against the respondents, *viz.*:

²¹ *Rollo* (G.R. No. 164482), Vol. II, p. 1208.

²² *Rollo* (G.R. No. 211320), p. 38.

PREMISES CONSIDERED, judgment is hereby rendered:

1. Dismissing the complaints filed by plaintiff and plaintiffs-intervenors;
2. Ordering the Register of Deeds to:
 - A. REINSTATE TCT No. T-19930; and
 - B. CANCEL all derivative titles of TCT No. T-19930; and
3. Ordering the plaintiff and plaintiffs-intervenors solidarily to pay defendants collectively:
 - A. Nominal damages in the amount of ₱50,000.00;
 - B. Exemplary damages in the amount of ₱50,000.00; and
 - C. ₱100,000.00 as attorney's fees and expenses of litigation.

SO ORDERED.²³

The respondents appealed to the CA (C.A.-G.R. CV No. 01727-MIN), which, on March 14, 2013, reversed and set aside the decision of the RTC, and declared the respondents as the rightful owners and possessors of the property,²⁴ decreeing:

WHEREFORE, the appeal is hereby **GRANTED** and the Decision dated October 20, 2008 of the RTC, 11th Judicial Region, Branch 16, Davao City is **REVERSED AND SET ASIDE**. A new judgment is hereby entered **DECLARING** plaintiff-appellant and plaintiffs-intervenors, as the heirs of Vivina Estrellado and Alipio Barredo, to be the lawful and rightful owners and possessors of the property covered by TCT No. T-19930. The issuance of the new transfer certificate of titles to plaintiff-appellant and plaintiffs-intervenors derived from TCT No. T-19930 is therefore respected.

SO ORDERED.²⁵

The CA opined that the adjudication of the issue of ownership in ejectment cases was merely provisional and did not bar an action between the same parties involving title to the same property; that the RTC had only referred to the decision of the CA in CA-G.R. SP No. 55727 regarding the forcible entry case as well as the petitions to cancel the adverse claims of Dr. Francisco annotated on the TCTs of the disputed properties; and that the RTC did not thereby determine who among the parties owned the parcels of land, and relied primordially on the principle of conclusiveness of judgment.

²³ Id. at 174-175.

²⁴ Supra note 2.

²⁵ *Rollo* (G.R. No. 211320), p. 189.

The petitioners assert that the CA erred in holding that the RTC did not make its own determination on who owned the property; that the CA did not consider that the case for the cancellation of adverse claim was conclusive between the parties; and that the complaint for quieting of title was already barred by prescription.²⁶

Ruling of the Court

We deny the petition for review on *certiorari* in **G.R. No. 164482** but grant the petition for review on *certiorari* in **G.R. No. 211320**.

G.R. No. 164482

I.

At the heart of the arguments of the Estrellados was the ownership of the bigger parcels of land and their contention that the final and executory decisions promulgated in CA-G.R. SP No. 55727, CA-G.R. SP No. 55732 and CA-G.R. SP No. 55734 did not bind them because they had not been impleaded as parties therein. Accordingly, they have adamantly opposed the execution of the judgment against them, and have sued to recover the parcels of land.

There ought to be no dispute that once the judgment of the MTCC in the forcible entry cases attained finality, the Estrellados as well as their heirs and successors-in-interest became bound thereby. The judgment of the MTCC, even if it was *in personam*, could be enforced against the petitioners in **G.R. No. 164482** notwithstanding that they had not been expressly impleaded in the complaint. Their being bound by the judgment was by virtue of their privity with their predecessors-in-interest. They were not strangers as to such judgment. The enforceability of the judgment against them was explained thuswise:

A judgment directing a party to deliver possession of a property to another is *in personam*. x x x Any judgment therein is binding only upon the parties properly impleaded and duly heard or given an opportunity to be heard. **However, this rule admits of the exception, such that even a non-party may be bound by the judgment in an ejectment suit where he is any of the following: (a) trespasser, squatter or agent of the defendant fraudulently occupying the property to frustrate the judgment; (b) guest or occupant of the premises with the permission of the defendant; (c) transferee *pendente lite*; (d) sublessee; (e) co-lessee; or (f) member of the family, relative or privy of the defendant.**²⁷ (Bold underscoring supplied for emphasis)

²⁶ Id. at 22.

²⁷ *Stilgrove v. Sabas*, A.M. No. P-06-2257, November 29, 2006, 508 SCRA 383, 395-396.

II.

The RTC correctly dismissed the petition for annulment of the judgment of the MTCC considering that the RTC and the CA had already affirmed the judgment in due course.

The grounds for the remedy annulment of judgment under Rule 47 of the *Rules of Court* were limited to extrinsic fraud and lack of jurisdiction. The limitation was stringent; otherwise, there would be interminable litigations because the objective of the proceedings for annulment was to return the petitioners to a situation as if the judgment had not been rendered.

The Court has expounded on the nature and scope of the remedy annulment of judgment in *Dare Adventure Farm Corporation v. Court of Appeals*,²⁸ to wit:

A petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud. Yet, the remedy, being exceptional in character, is not allowed to be so easily and readily abused by parties aggrieved by the final judgments, orders or resolutions. The Court has thus instituted safeguards by limiting the grounds for the annulment to lack of jurisdiction and extrinsic fraud, and by prescribing in Section 1 of Rule 47 of the *Rules of Court* that the petitioner should show that the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper.²⁹

It is worthy to emphasize that the petition for annulment of judgment is available only when the *ordinary remedies* of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. Given that the petitioners herein (or their predecessors-in-interest) had earlier availed themselves of the remedy of appeal, they could no longer resort to the remedy of annulment of judgment.

Moreover, the petitioners alleged extrinsic fraud, claiming that their counsel had failed to submit important documents to support their defense. However, the allegation could not justify the relief of annulment being sought. For purposes of Rule 47 of the *Rules of Court*, only extrinsic fraud is recognized as a ground. Fraud is extrinsic when it prevents a party from having a trial or from presenting his entire case to the court, or where it

²⁸ G.R. No. 161122, September 24, 2012, 681 SCRA 580.

²⁹ Id. at 586-587.

operates upon matters pertaining not to the judgment itself, but to the manner in which the judgment is procured. The overriding consideration is that the fraudulent scheme of the prevailing litigant prevented the petitioner from having his day in court.³⁰ In this case, however, the Franciscos as the prevailing parties had no part in the commission of the fraud committed by the petitioners' counsel.

The petitioners' contention that the MTCC had no jurisdiction over the subject matter was similarly unwarranted. It is noteworthy that the averments of the Franciscos as plaintiffs in the forcible entry cases were resolved by the MTCC, and such resolution was affirmed on appeal by the RTC and later on by the CA.

At any rate, the challenge mounted against the decision of the RTC dismissing the petition for annulment of judgment implicates the determination of questions of fact centering on the issues and the conduct of the trial. If there is the need for re-evaluation of the averments in the forcible entry case, the Court cannot involve itself in the determination because it is not a trier of facts. In addition, the Court will not engage in another review of the same facts that were already the subject of the common findings among the MTCC, RTC and the CA.

G.R. No. 211320

The RTC and the CA differed on the outcome for the *accion reivindicatoria* initiated by the respondents. The CA concluded that the RTC did not make any further examination and determination of the ownership of the parcel of land in question; and gave premium to the owner's duplicate copy of the TCT the respondents had obtained in 1998 over the petitioners' evidence showing the sale to Dr. Francisco, their father, by the late Vivina Barredo, the predecessor in interest of the respondents, of the parcel of land in question.

The CA's conclusion cannot be upheld.

The sole issue for resolution in ejectment cases relates to the physical or material possession of the property involved, independent of any claim of ownership by any of the parties. Where the issue of ownership is raised by any of the parties, the courts may pass upon the same only in order to determine who has the better right to possess the property. The adjudication of ownership, being merely provisional, does not bar or prejudice an action between the same parties involving title to the same property.³¹ As such, the

³⁰ *Castigador v. Nicolas*, G.R. No. 184023, March 4, 2013, 692 SCRA 333, 337.

³¹ *Barrientos v. Rapal*, G.R. No. 169594, July 20, 2011, 654 SCRA 165, 171.

resolutions of the CA in CA-G.R. SP No. 55727, CA-G.R. SP No. 55732 and CA-G.R. SP No. 55734 sustaining the ownership of the Franciscos over the disputed parcels of land did not prevent the Estrellados from initiating the present action in court.

Under Article 1475 of the *Civil Code*, the contract of sale is perfected at the moment there is a meeting of minds not only upon the thing that is the object of the contract but also upon the price. From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts. The elements of a contract of sale are consent, object, and price in money or its equivalent. The absence of any of these essential elements negates the existence of a perfected contract of sale. Sale is a consensual contract, and the party who alleges the sale must show its existence by competent proof.³²

The Franciscos could not produce the deeds of sale between them and the Estrellados. Nonetheless, they presented the certification dated June 10, 1970 signed in Davao City by the late Spouses Alipio and Vivina Barredo,³³ to wit:

This is to certify that we have sold to Dr. JOVITO S. FRANCISCO 15,465 sq. m. of our land in Barrio Sangay, Matina Aplaya for (₱30,930.00) THIRTY THOUSAND NINE HUNDRED THIRTY PESOS; and that to date we have received a total of TWENTY NINE THOUSAND SIX HUNDRED EIGHTY NINE AND 50/100 (₱29,689.50) PESOS duly receipted and TWO HUNDRED SIXTY EIGHT and 35/100 (₱268.35) PESOS for medicine, survey fee and miscellaneous expenses giving a total of TWENTY NINE THOUSAND NINE HUNDRED FIFTY SEVEN and 85/100 PESOS leaving a balance of NINE HUNDRED SEVENTY TWO and 15/100 (₱972.15) PESOS.

The Franciscos also presented the receipt signed on June 13, 1970 by the late Spouses Alipio and Vivina Barredo to the effect that they had received from Dr. Francisco the balance of ₱972.15 as the “final instalment and full payment of the sale of 15,465 sq. m. of our land in Barrio Sangay, Matina Aplaya, Davao City x x x.”³⁴

These documents pointed to nothing else but that the late Spouses Alipio and Vivina Barredo had sold their parcel of land of 15,465 square meters to Dr. Francisco.

³² *Dizon v. Court of Appeals*, G.R. No. 122544 and 124741, January 28, 1999, 302 SCRA 288, 302.

³³ *Rollo*, G.R. No. 164482, p. 552.

³⁴ *Id.* at 553.

It is required under Article 1403(2) of the *Civil Code* that the sale of real property, to be enforceable, should be in a writing subscribed by the party charged for it. This requirement was met herein by the Franciscos even in the absence of any formal deed of sale. Considering that the agreement between the parties on the sale was reduced in writing and signed by the late Spouses Alipio and Vivina Barredo as the sellers, the sale was enforceable under the Statute of Frauds. Despite the document embodying the agreement on the sale not being acknowledged before a notary public, the non-observance of the form prescribed by Article 1358(1)³⁵ of the *Civil Code* did not render the sale invalid. Indeed, the form required by Article 1358 was only for convenience of the parties, and was not essential to the validity or enforceability of the sale.³⁶

Lastly, the respondents' possession of the owner's duplicate copy of the TCT obtained in 1998 did not justify the conclusion of the CA that they were the owners of the parcel of land. Indeed, possession of the owner's duplicate copy of the TCT was not necessarily equivalent to ownership of the land therein described. For one, the TCT was merely evidence of title.³⁷ And, moreover, registration of real property under the Torrens System does not create or vest title because it is not a mode of acquiring ownership.

WHEREFORE, the Court **DISPOSES** of the consolidated appeals as follows:

1. In **G.R. No. 164482**, the Court **AFFIRMS** the decision rendered by the Regional Trial Court, Branch 13, in Davao City **DISMISSING** the petition for annulment of judgment in Civil Case No. 30,111-03; and

2. In **G.R. No. 211320**, the Court **REVERSES** and **SETS ASIDE** the decision promulgated by the Court of Appeals in CA-G.R. CV No. 01727-MIN, and **REINSTATES** the decision rendered in Civil Case No. 29,759-03 by the Regional Trial Court, Branch 16, in Davao City.

³⁵ Article 1358. The following must appear in a public document:

(1) **Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by articles 1403, No. 2, and 1405;**

(2) The cession, repudiation or renunciation of hereditary rights or of those of the conjugal partnership of gains;

(3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or should prejudice a third person;

(4) The cession of actions or rights proceeding from an act appearing in a public document.

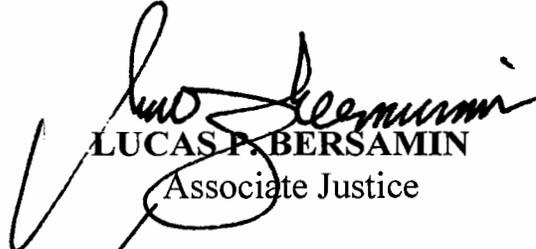
All other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one. But sales of goods, chattels or things in action are governed by articles, 1403, No. 2 and 1405. (1280a)

³⁶ *Estate of Pedro C. Gonzales v. Heirs of Marcos Perez*, G.R. No. 169681, November 5, 2009, 605 SCRA 47, 59-60.

³⁷ *Camitan v. Fidelity Investment Corporation*, G.R. No. 163684, April 16, 2008, 551 SCRA 540, 554.

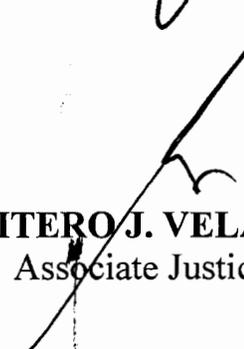
The Court **ORDERS** the petitioners in G.R. No. 164482 and the respondents in G.R. No. 211320 to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



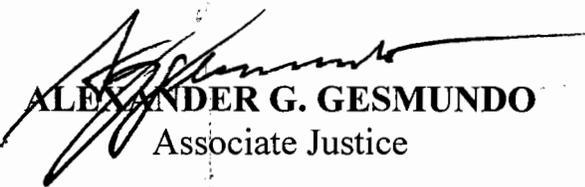
PRESBITERO J. VELASCO JR.
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



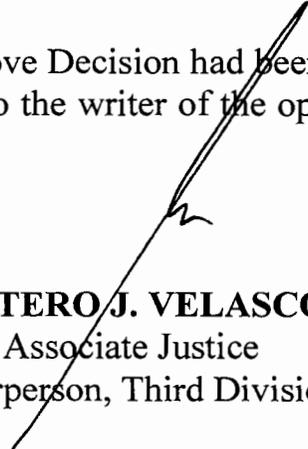
SAMUEL R. MARTIRES
Associate Justice



ALEXANDER G. GESMUNDO
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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.



MARIA LOURDES P. A. SERENO
Chief Justice

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