



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 February 2021** which reads as follows:*

**“G.R. No. 251642 (Alfredo L. Dela Cruz [deceased], substituted by his niece Violeta Dalusong Santos v. Donny S. Soriano).**

At the outset, the Court resolves to:

1. **GRANT** the motion of petitioner Alfredo L. Dela Cruz (petitioner) for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*; and
2. **NOTE** and **GRANT** the manifestation with motion to substitute deceased petitioner dated July 14, 2020 of counsel for petitioner, submitting a certified true copy of the death certificate of petitioner, and praying that the deceased petitioner be substituted by his niece Violeta Dalusong Santos as petitioner in the instant case.

This is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Court of Appeals’ (CA) Decision dated September 20, 2019 in CA-G.R. CV No. 112136 which affirmed the Regional Trial Court’s (RTC) Judgment dated September 21, 2018 dismissing the complaint for nullity of title and sale.

Prefatorily, it bears emphasis that the petitioner has legal standing to assail the nullity of the certificate of title and the deed of sale. Contrary to the CA and the RTC’s findings, Article 1311 of the New Civil Code which provides that “[c]ontracts take effect only between the parties, their assigns and heirs” does not distinguish between compulsory and legal heirs. Moreover, it is undisputed that the seller, Josefa Dela Cruz (Josefa), died without compulsory heirs and was survived only by her

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<sup>1</sup> *Rollo*, pp. 11-38.

brother – petitioner. As a legal heir, petitioner is bound by the contract, and has the correlative right to protect his interest over the inherited property.

Anent the merits of the case, however, petitioner raised a question regarding the CA and the RTC's appreciation of the evidence which is one of fact, and is beyond the ambit of this Court's jurisdiction in a petition for review on *certiorari*. It is not this Court's task to go over the proofs presented below to ascertain if they were appreciated and weighed correctly, most especially when the CA and the RTC speak as one in their findings and conclusions. While it is widely held that this rule of limited jurisdiction admits of exceptions, none exists in the instant case.<sup>2</sup>

At any rate, this Court finds no cogent reason to deviate from the CA and the RTC's findings that petitioner failed to substantiate his claim that the certificate of title issued in favor of the respondent was based on a void sale. It is a basic rule in civil cases that the party having the burden of proof must establish his case by preponderance of evidence or that which is of greater weight, or more convincing than that which is offered in opposition to it.<sup>3</sup> Yet, petitioner submitted only his judicial affidavit stating that Josefa's consent to the sale was vitiated, and that she has no full capacity to comprehend the consequences of her actions. Verily, these bare allegations are self-serving absent any supporting evidence. Lastly, we reiterate that a notarized instrument enjoys the presumption of due execution and authenticity. It must be sustained in full force and effect so long as he who impugns it does not present strong, complete, and conclusive proof of its falsity or nullity on account of some flaws or defects provided by law.<sup>4</sup>

**FOR THESE REASONS, the petition is DENIED.**

**SO ORDERED.”**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *Ufth-618*

<sup>2</sup> *Republic v. Ortigas and Company Limited Partnership*, 728 Phil. 277, 287 (2014).

<sup>3</sup> *MOF Company, Inc. v. Shin Yang Brokerage Corp.*, 623 Phil. 424, 436 (2009).

<sup>4</sup> *Herbon v. Palad*, 528 Phil. 130, 143 (2006).

Resolution

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G.R. No. 251642  
February 01, 2021

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HON. PRESIDING JUDGE (reg)  
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(Civil Case No. 1713-MN)

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*Please notify the Court of any change in your address.*  
GR251642. 02/01/2021(154)URES 