



Republic of the Philippines
 Supreme Court
 Manila

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 Division Clerk of Court
 Third Division
 AUG 04 2016

THIRD DIVISION

TRIFONIA D. GABUTAN, deceased, G.R. Nos. 185857-58
 herein represented by her heirs,
 namely: Erlinda Llames, Elisa Asok,
 Primitivo Gabutan, Valentina Yane;
BUNA D. ACTUB, FELISIA
TROCIO, CRISANTA D. UBAUB,
 and **TIRSO DALONDONAN,**
 deceased, herein represented by his
 heirs, namely: Madelyn D. Reposar
 and Jerry Dalondonan, **MARY JANE**
GILIG, ALLAN UBAUB, and
SPOUSES NICOLAS & EVELYN
DAILO,

Petitioners,

-versus-

DANTE D. NACALABAN, HELEN
N. MAANDIG, SUSAN N. SIAO, and
CAGAYAN CAPITOL COLLEGE,
 Respondents.

x----- x

DANTE D. NACALABAN, HELEN G.R. Nos. 194314-15
N. MAANDIG, and SUSAN N. SIAO,
 as **HEIRS OF BALDOMERA D.**
VDA. DE NACALABAN,

Petitioners,

-versus-

TRIFONIA D. GABUTAN, BUNA D.
ACTUB, FELISIA D. TROCIO,
CRISANTA D. UBAUB, and TIRSO
DALONDONAN, deceased, herein
 represented by his heirs, namely:
 Madelyn D. Reposar and Jerry
 Dalondonan, **MARY JANE GILIG,**

**ALLAN UBAUB, and SPOUSES
NICOLAS & EVELYN DAILO,
CAGAYAN CAPITOL COLLEGE,
represented by its President, Atty.
Casimiro B. Suarez, Jr.,**
Private Respondent;

**HON. LEONCIA R. DIMAGIBA
(Associate Justice), HON. PAUL L.
HERNANDO (Associate Justice),
HON. NINA G. ANTONIO-
VALENZUELA (Associate Justice),
HON. EDGARDO T. LLOREN
(Associate Justice), HON. MICHAEL
P. ELBINIAS (Associate Justice), and
HON. JANE AURORA C. LANTION
(Associate Justice, Acting Chairman),
COURT OF APPEALS, CAGAYAN
DE ORO CITY (Former Special
Twenty-Second Division),**

Public Respondents.

Present:
VELASCO, JR., *J.*, *Chairperson*
PERALTA,
PEREZ,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

June 29, 2016

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[Signature]-----x

DECISION

JARDELEZA, J.:

Before us are consolidated petitions questioning the Court of Appeals' (CA) Decision¹ dated December 11, 2008 and Resolution² dated August 17, 2010 in CA-G.R. CV No. 68960-MIN and CA-G.R. SP No. 53598-MIN.³ In G.R. Nos. 185857-58, the heirs of Trifonia D. Gabutan and Tirso Dalondonan, Buna D. Actub, Felisia Trocio and Crisanta D. Ubaub (Gabutan, *et al.*) filed a partial appeal by way of a petition for review on *certiorari*,⁴ seeking to reverse the portion of the CA Decision declaring Cagayan Capital College (the College) as a buyer in good faith. The other petition, G.R. Nos. 194314-15, is one for *certiorari*⁵ filed by Dante D. Nacalaban, Helen N. Maandig, and Susan N. Siao as heirs of Baldomera D. Vda. De Nacalaban (Nacalaban, *et al.*). It seeks to annul the CA Decision and Resolution which sustained the action for reconveyance filed by Gabutan, *et al.*

¹ *Rollo* (G.R. Nos. 185857-58), pp. 78-96. Penned by Associate Justice Edgardo T. Lloren with Associate Justices Jane Aurora C. Lantion and Michael P. Elbinias concurring.

² *Rollo* (G.R. Nos. 194314-14), pp. 40-42. Penned by Associate Justice Leoncia R. Dimagiba with Associate Justices Ramon Paul L. Hernando and Nina G. Antonio-Valenzuela concurring.

³ Consolidated via CA Resolution dated October 7, 2004, *rollo* (G.R. No. 185857-58), p. 84.

⁴ *Rollo* (G.R. Nos. 185857-58), pp. 33-75.

⁵ *Rollo* (G.R. Nos. 194314-15), pp. 3-17.

The Antecedents

On January 25, 1957, Godofredo Nacalaban (Godofredo) purchased an 800-square meter parcel of prime land (property) in Poblacion, Cagayan de Oro City from Petra, Fortunata, Francisco and Dolores, all surnamed Daamo.⁶ Pursuant to the sale, Transfer Certificate of Title (TCT) No. T-2259⁷ covering the property was issued in the name of Godofredo. He thereafter built a house on it.⁸

Godofredo died on January 7, 1974.⁹ He was survived by his wife, Baldomera, and their children, Dante, Helen, and Susan. On March 19, 1979, Baldomera issued a Certification¹⁰ in favor of her mother, Melecia. It provided, in effect, that Baldomera was allowing her mother to build and occupy a house on the portion of the property.¹¹ Accordingly, the house was declared for taxation purposes. The tax declaration¹² presented in evidence showed that Melecia owned the building on the land owned by Godofredo.¹³

Baldomera died on September 11, 1994.¹⁴ On July 3, 1996, her children executed an Extrajudicial Settlement of Estate of Deceased Person with Sale¹⁵ (Extrajudicial Settlement with Sale) where they adjudicated unto themselves the property and sold it to the College. On August 22, 1996, TCT No. T-2259 was cancelled and TCT No. T-111846¹⁶ covering the property was issued in the name of the College.¹⁷

Melecia died on April 20, 1997¹⁸ and was survived by her children, Trifonia, Buna, Felisia, Crisanta, and Tirso.

In a letter¹⁹ dated May 5, 1997, the College demanded Trifonia D. Gabutan, Mary Jane Gilig, Allan Ubaub, and Evelyn Dailo, the heirs of Melecia who were occupying the house on the property, to vacate the premises.²⁰

On July 7, 1997, Gabutan, *et al.* filed a Complaint for Reconveyance of Real Property, Declaration of Nullity of Contracts, Partition and Damages with Writ of Preliminary Attachment and Injunction²¹ against Nacalaban, *et al.* and the College. They alleged that: (1) Melecia bought the property using

⁶ Evidenced by a Deed of Conditional Sale, *rollo* (G.R. Nos. 185857-58), pp. 79-80, 215.

⁷ *Id.* at 209.

⁸ *Id.* at 80.

⁹ *Id.*

¹⁰ *Rollo* (G.R. Nos. 185857-58), p. 541.

¹¹ *Id.* at 80.

¹² *Id.* at 542.

¹³ *Id.* at 80.

¹⁴ *Id.*

¹⁵ *Rollo* (G.R. Nos. 185857-58), pp. 110-111.

¹⁶ *Id.* at 205.

¹⁷ *Id.* at 80-81.

¹⁸ *Id.* at 97, 191.

¹⁹ *Id.* at 112.

²⁰ *Id.* at 81.

²¹ *Id.* at 97-107

her own money but Godofredo had the Deed of Absolute Sale executed in his name instead of his mother-in-law;²² (2) Godofredo and Baldomera were only trustees of the property in favor of the real owner and beneficiary, Melecia;²³ (3) they only knew about the Extrajudicial Settlement with Sale upon verification with the Registry of Deeds;²⁴ and (4) the College was a buyer in bad faith, being aware they were co-owners of the property.²⁵

In its Answer with Affirmative Defenses,²⁶ the College claimed that it is a buyer in good faith and for value, having “made exhaustive investigations and verifications from all reliable sources” that Melecia and her heirs were staying in the property by mere tolerance.²⁷ It alleged that: (1) in the tax declaration²⁸ of the residential house, Melecia admitted that the lot owner is Godofredo;²⁹ (2) the occupancy permit of Melecia was issued only after Godofredo issued a certification³⁰ to the effect that Melecia was allowed to occupy a portion of the property;³¹ and (3) the Extrajudicial Settlement with Sale was published in three consecutive issues of Mindanao Post, a newspaper of general circulation.³²

In their Answer with Counterclaim,³³ Nacalaban, *et al.* denied the allegations of Gabutan, *et al.* They claimed to have acquired the property by intestate succession from their parents, who in their lifetime, exercised unequivocal and absolute ownership over the property.³⁴ Nacalaban, *et al.* also set up the defenses of laches and prescription, and asserted that the action for reconveyance was improper because the property had already been sold to an innocent purchaser for value.³⁵

On September 10, 1997, the College filed a separate Complaint for Unlawful Detainer and Damages³⁶ with the Municipal Trial Court in Cities (MTCC) against Trifonia, Mary Jane, Allan, Evelyn and Nicolas Dailo (Heirs of Melecia). In their Answer with Affirmative and/or Negative Defenses with Compulsory Counterclaim,³⁷ the Heirs of Melecia claimed that they own and possess the property in co-ownership with Nacalaban, *et al.* and Gabutan, *et al.* because it was purchased by Melecia, their common predecessor.³⁸ They also claimed that the house in which they reside was

²² *Id.* at 98.

²³ *Id.* at 99.

²⁴ *Id.* at 101.

²⁵ *Id.* at 100.

²⁶ *Id.* at 132-138.

²⁷ *Id.* at 133.

²⁸ *Id.* at 139.

²⁹ *Id.* at 134.

³⁰ *Id.* at 140.

³¹ *Id.* at 133-134.

³² *Id.* at 134, 141.

³³ *Id.* at 123-131.

³⁴ *Id.* at 127.

³⁵ *Id.* at 128.

³⁶ *Id.* at 175-178.

³⁷ *Id.* at 184-188.

³⁸ *Id.* at 184-185.

constructed at her expense.³⁹ The College had prior knowledge of this co-ownership, and hence, was a purchaser in bad faith.⁴⁰ The Heirs of Melecia also raised the defense of forum-shopping in view of the pendency of the action for reconveyance.⁴¹ They then concluded that in view of the issues and the value of the property, as well, the MTCC had no jurisdiction over the case.⁴²

The MTCC found it had jurisdiction to hear the case and ruled in favor of the College:⁴³

WHEREFORE, JUDGMENT is hereby rendered ordering each of the defendants to:

- a.) Immediately vacate the property of the plaintiff;
- b.) Pay the plaintiff the monthly use compensation for the continued use of the property at the rate of P500.00 per month from MAY 5, 1997 until the property is actually vacated;
- c.) Pay the plaintiff Attorney's fees amounting to P5,000.00 per defendant;
- d.) Pay for litigation expenses at the rate of P1,000.00 per defendant.

SO ORDERED.⁴⁴

On appeal, the Regional Trial Court (RTC) affirmed the MTCC's Decision⁴⁶ in all respects, except that the Heirs of Melecia were given 30 days from notice to vacate the property.⁴⁷ They filed a motion for reconsideration, but it was denied.⁴⁹ Thus, the Heirs of Melecia filed a petition for review⁵⁰ before the CA, docketed as CA-G.R. SP No. 53598.⁵¹

Meanwhile, in the reconveyance case, the RTC rendered a Decision⁵² in favor of Gabutan, *et al.* The RTC found the testimonies of their witnesses credible, in that the money of Melecia was used in buying the property but the name of Godofredo was used when the title was obtained because Godofredo lived in Cagayan de Oro City while Melecia lived in Bornay, Gitagum, Misamis Oriental.⁵³ Thus, the RTC held that a trust was established by operation of law pursuant to Article 1448 of the Civil Code.⁵⁴ The dispositive portion of the RTC's Decision reads:

³⁹ *Id.* at 185.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Rollo* (G.R. Nos. 185857-58), pp. 185-186.

⁴³ *Id.* at 231-237.

⁴⁴ *Id.* at 237.

⁴⁶ *Id.* at 293-302.

⁴⁷ *Id.* at 301-302.

⁴⁹ *Id.* at 321-322.


⁵⁰ *Id.* at 326-346.

⁵¹ *Id.* at 82.

⁵² *Id.* at 557-568.

⁵³ *Id.* at 558.

⁵⁴ *Id.* at 561-565.



WHEREFORE, judgment is hereby rendered, and this Court hereby:

1. Declares that the Spouses Godofredo and Baldomera Nacalaban held the land covered by Transfer Certificate of Title No. T-2259 issued in the name of Godofredo Nacalaban married to Baldomera Dalondonan issued on January 13, 1959 in trust for Melecia Vda. de Dalondonan with the Spouses as the trustees and Melecia Vda. de Dalondonan as the cestui que trust;
2. Declares that upon the death of Melecia Vda. de Dalondonan on August 20, 1997, the ownership and beneficial interest of the foregoing Land passed to the plaintiffs and individual defendants by operation of law as legal heirs of Melecia Vda. de Dalondonan;
3. Nullifies the Extrajudicial Settlement of Estate of Deceased Person with Sale executed by the individual defendants on July 30, 1996 and known as Doc. No. 326; Page No. 67; Book No. XX; Series of 1996 in the Notarial Register of Notary Public Victoriano M. Jacot with respect to the Extrajudicial settlement by the individual defendants of the land referred to above;
4. Declares that defendant Cagayan Capitol College was a buyer in good faith and for value of the land referred to above, and, accordingly, declares that said defendant now owns the land;
5. Orders defendant Cagayan Capitol College to inform this Court in writing within thirty (30) days from receipt of this decision the amount of the purchase price of the land referred to above bought by it from the individual defendants the amount of which should approximate the prevailing market value of the land at the time of the purchase;
6. Orders the individual defendants namely, Dante D. Nacalaban, Helen N. Maandig, and Susan N. Siao, jointly and severally, to deliver and turn over to the plaintiffs, within thirty (30) days from receipt of this decision, plaintiffs' shares of the proceeds of the sale of the land referred to above the amount of which is equivalent to five-sixth (5/6) of said proceeds with the remaining one-sixth (1/6) to be retained by the individual defendants as their share by virtue of their being the legal heirs of Baldomera D. Nacalaban;



SO ORDERED.⁵⁵

Both parties filed separate appeals from this Decision before the CA.⁵⁷ In a Resolution⁵⁸ dated October 7, 2004, the CA consolidated both appeals.

The CA rendered its Decision⁵⁹ on December 11, 2008 dismissing the consolidated appeals and affirming *in toto* the RTC Decisions in the unlawful detainer case and the action for reconveyance. The CA held that: (1) the defense of co-ownership based on an implied trust by a defendant in an unlawful detainer case shall not divest the MTCC of jurisdiction over the case;⁶⁰ (2) the dead man's statute does not apply because Gabutan, *et al.*'s counsel did not interpose any objection when the testimony of Crisanta Ubaub was offered and Gabutan, *et al.*'s counsel even examined her;⁶¹ (3) Nacalaban, *et al.*'s claim that Gabutan, *et al.*'s witnesses are not competent to testify on matters which took place before the death of Godofredo and Melecia is without merit because Gabutan, *et al.* have not specified these witnesses and such hearsay evidence alluded to;⁶² (4) the parole evidence rule does not apply because Melecia and Nacalaban, *et al.* were not parties to the Deed of Conditional Sale;⁶³ (5) the action for reconveyance has not yet prescribed because Gabutan, *et al.* are in possession of the property;⁶⁴ and (6) the College is a buyer in good faith.⁶⁵

Nacalaban, *et al.* filed their motion for reconsideration of the CA Decision, but it was denied in a Resolution⁶⁶ dated August 17, 2010. Hence, they filed the present petition for *certiorari*⁶⁷ under Rule 65, where they allege that: (1) the action for reconveyance already expired;⁶⁸ (2) for an action for reconveyance to prosper, the property should not have passed into the hands of another who bought the property in good faith and for value;⁶⁹ and (3) the title of Godofredo under TCT No. T-2259 which was issued on January 13, 1959 could not be attacked collaterally.⁷⁰

On the other hand, Gabutan, *et al.* filed the present petition for review on *certiorari*⁷¹ under Rule 45, seeking a partial appeal of the CA Decision. In their petition, Gabutan, *et al.* allege that the College is not a buyer in good faith because it did not buy the property from the registered owner.⁷² Since

⁵⁵ *Id.* at 567-568.

⁵⁷ *Id.* at 79.

⁵⁸ *Id.* at 614-615.

⁵⁹ *Id.* at 78-96.

⁶⁰ *Id.* at 88.

⁶¹ *Id.* at 90.

⁶² *Id.* at 90-91.

⁶³ *Id.* at 91.

⁶⁴ *Id.* at 93-94.

⁶⁵ *Id.* at 95.

⁶⁶ *Rollo* (G.R. Nos. 194314-15), pp. 40-42.

⁶⁷ *Id.* at 3-17.

⁶⁸ *Id.* at 7-8.

⁶⁹ *Id.*

⁷⁰ *Rollo* (G.R. Nos. 194314-15), pp. 10-11.

⁷¹ *Rollo* (G.R. Nos. 185857-58), pp. 33-75.

⁷² *Id.* at 56-57.

Godofredo was the registered owner of the property and not Nacalaban, *et al.*, the College should have exercised a higher degree of prudence in establishing their capacity to sell it.⁷³ Further, despite knowing that other persons possessed the property, the College did not inquire with Gabutan, *et al.* the nature of their stay on the property.⁷⁴ Under Section 1, paragraph 2, Rule 74 of the Rules of Court, the publication of the Extrajudicial Settlement with Sale was also without prejudice to claims of other persons who had no notice or participation thereof.⁷⁵ Finally, Gabutan, *et al.* argue that they cannot be ejected from the property because there is no evidence to show that their stay was by mere tolerance, and that Melecia was a builder in good faith.⁷⁶

Considering that the petitions assail the same CA Decision and involve the same parties, we issued a Resolution⁷⁷ dated December 13, 2010 consolidating them.

The Issues

The issues for resolution are:

1. Whether the petition for *certiorari* of Nacalaban, *et al.* shall prosper;
2. Whether the action for reconveyance was proper; and
3. Whether the College is a buyer in good faith.

Our Ruling

I. The petition for certiorari of Nacalaban, et al. is a wrong remedy

Pursuant to Section 1, Rule 45 of the Rules of Court,⁷⁸ the proper remedy to obtain a reversal of judgment on the merits, final order or resolution is an appeal. The Resolution dated August 17, 2010 of the CA, which affirmed its Decision dated December 11, 2008, was a final resolution that disposed of the appeal by Nacalaban, *et al.* and left nothing more to be done by the CA in respect to the said case. Thus, Nacalaban, *et al.* should have filed an appeal in the form of a petition for review on *certiorari* and not a petition for *certiorari* under Rule 65, which is a special civil action.

⁷³ *Id.* at 57-58.

⁷⁴ *Id.* at 58.

⁷⁵ *Id.* at 62-63.

⁷⁶ *Id.* at 65, 68-69.

⁷⁷ *Id.* at 816-817.

⁷⁸ Section 1. *Filing of petition with Supreme Court.*—A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

Rule 65 is a limited form of review and is a remedy of last recourse. This extraordinary action lies only where there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law.⁷⁹ In *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*,⁸⁰ we held that appeal would still be the proper remedy from a judgment on the merits, final order or resolution even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the resort to *certiorari* because one of the requirements for the latter remedy is that there should be no appeal.⁸¹ We have always declared that a petition for *certiorari* is not a substitute for an appeal where the latter remedy is available but was lost through fault or negligence.⁸²

Here, Nacalaban, *et al.* received the assailed Resolution dated August 17, 2010 on September 7, 2010.⁸³ Under the Rules of Court, they had 15 days or until September 22, 2010 to file an appeal before us. Nacalaban, *et al.* allowed this period to lapse without doing so and, instead, filed a petition for *certiorari* on November 5, 2010.⁸⁴ Being the wrong remedy, the petition of Nacalaban, *et al.* is, therefore, dismissible. Although there are exceptions⁸⁵ to this general rule, none applies in this case.

In spite of the consolidation we have ordered, we cannot treat the petition of Nacalaban, *et al.* as one under Rule 45. We have the discretion to treat a Rule 65 petition for *certiorari* as a Rule 45 petition for review on *certiorari* if (1) the petition is filed within the reglementary period for filing a petition for review; (2) when errors of judgment are averred; and (3) when there is sufficient reason to justify the relaxation of the rules.⁸⁶ The first and third requisites are absent in this case. To reiterate, the petition was filed beyond the 15-day reglementary period of filing a petition for review on *certiorari*. As will be discussed, we also find no compelling reason to relax the rules.

⁷⁹ *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, G.R. No. 155306, August 28, 2013, 704 SCRA 24, 36, citing *Balayan v. Acorda*, G.R. No. 153537, May 5, 2006, 489 SCRA 637, 641-642.

⁸⁰ G.R. No. 155306, August 28, 2013, 704 SCRA 24.

⁸¹ *Id.* at 35-36, citing *Bugarin v. Palisoc*, G.R. No. 157985, December 2, 2005, 476 SCRA 587, 595-596.

⁸² *Id.* at 36.

⁸³ *Rollo* (G.R. Nos. 194314-15), p. 4.

⁸⁴ *Id.* at 3.

⁸⁵ The exceptions are the following:

(a) when public welfare and the advancement of public policy dictates;

(b) when the broader interest of justice so requires;

(c) when the writs issued are null and void; or

(d) when the questioned order amounts to an oppressive exercise of judicial authority.

Hanjin Engineering and Construction Co., Ltd. v. Court of Appeals, G.R. No. 165910, April 10, 2006, 487 SCRA 78, 100.

⁸⁶ *Tankeh v. Development Bank of the Philippines*, G.R. No. 171428, November 11, 2013, 709 SCRA 19, 44, citing *China Banking Corporation v. Cebu Printing and Packaging Corporation*, G.R. No. 172880, August 11, 2010, 628 SCRA 154, 168, citing *Tagle v. Equitable PCI Bank*, G.R. No. 172299, April 22, 2008, 552 SCRA 424.

*II. The action for reconveyance
filed by Gabutan, et al. is
proper*

*a. An implied resulting trust was
created between Melecia and
Godofredo*

We stress at the outset that the question of existence of an implied trust is factual, hence, ordinarily outside the purview of Rule 45.⁸⁷ The resolution of factual issues is the function of the lower courts whose findings, when aptly supported by evidence, bind us. This is especially true when the CA affirms the lower court's findings, as in this case. While we, under established exceptional circumstances, had deviated from this rule, we do not find this case to be under any of the exceptions.⁸⁸ Even if we were to disregard these established doctrinal rules, we would still affirm the assailed CA rulings.

Article 1448 of the Civil Code provides in part that there is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. The trust created here, which is also referred to as a purchase money resulting trust,⁸⁹ occurs when there is (1) an actual payment of money, property or services, or an equivalent, constituting valuable consideration; (2) and such consideration must be furnished by the alleged beneficiary of a resulting trust.⁹⁰ These two elements are present here.

Gabutan, *et al.*, through the testimonies of Felisia, Crisanta, and Trifonia, established that Melecia's money was used in buying the property, but its title was placed in Godofredo's name. She purchased the property because Felisia wanted to build a pharmacy on it.⁹¹ On one occasion in Melecia's house, and when the entire family was present, Melecia gave Godofredo the money to purchase the property.⁹² Melecia entrusted the money to Godofredo because he was in Cagayan de Oro, and per Melecia's instruction, the deed of sale covering the property was placed in his name.⁹³ It was allegedly her practice to buy properties and place them in her children's name, but it was understood that she and her children co-own the properties.⁹⁴

⁸⁷ *Tong v. Go Tiat Kun*, G.R. No. 196023, April 21, 2014, 722 SCRA 623, 633.

⁸⁸ *Chu, Jr. v. Caparas*, G.R. No. 175428, April 15, 2013, 696 SCRA 324, 333.

⁸⁹ *Tong v. Go Tiat Kun*, *supra* at 635-636, citing *Comilang v. Burcena*, G.R. No. 146853, February 13, 2006, 482 SCRA 342, 350.

⁹⁰ *Pigao v. Rabanillo*, G.R. No. 150712, May 2, 2006, 488 SCRA 546, 561, citing *Morales v. Court of Appeals*, G.R. No. 117228, June 19, 1997, 274 SCRA 282.

⁹¹ *Rollo* (G.R. Nos. 185867-58), p. 560.

⁹² *Id.* at 559.

⁹³ *Id.* at 558.

⁹⁴ *Id.* at 560.

Melecia built a residential building on the property, where her daughter Crisanta and some of her grandchildren resided.⁹⁵ Godofredo also thereafter built a house on the property. Twice, he also mortgaged the property to secure loans. Melecia allowed him to do so because she trusted him.⁹⁶ After Godofredo's death, and when Baldomera fell ill, there were family discussions to transfer the title in Melecia's name so Melecia's children can divide it together with the rest of Melecia's properties. The plans, however, always fell through.⁹⁷

Both the RTC and CA found credence on these pieces of testimonial evidence that an implied resulting trust exists. Reliance on these testimonies will not violate the parol evidence rule, as Nacalaban, *et al.* once raised. In *Tong v. Go Tiat Kun*,⁹⁸ we ruled that since an implied trust is neither dependent upon an express agreement nor required to be evidenced by writing, Article 1457 of our Civil Code authorizes the admission of parol evidence to prove their existence. What is crucial is the intention to create a trust.⁹⁹ We cautioned, however, that the parol evidence that is required to establish the existence of an implied trust necessarily has to be trustworthy and it cannot rest on loose, equivocal or indefinite declarations.¹⁰⁰ The testimonies of Felisia, Crisanta, and Trifonia satisfy these requirements. They are consistent and agree in all material points in reference to the circumstances behind the arrangement between Melecia and Godofredo. We agree with the RTC when it said that this arrangement among family members is not unusual, especially in the 1950s.¹⁰¹

Nacalaban, *et al.*, on the other hand, denied the arrangement between Melecia and Godofredo, and maintained that it was really the latter who purchased the property from its original owners, as evidenced by their possession of the Deed of Conditional Sale and the title being in Godofredo's name.¹⁰² It is telling, however, that Nacalaban, *et al.* failed to provide the details of the sale, specifically with regard to how Godofredo could have been able to afford the purchase price himself, which would have directly refuted the allegation that Melecia's money was used in the purchase. As the RTC aptly observed, if Godofredo really bought the property with his own money, it was surprising that Baldomera did not transfer the title of the property to her name when Godofredo died in 1974. Baldomera did not do so until her death in 1994 despite being pressed by her siblings to partition the property. The RTC correctly deduced that this only meant that Baldomera acknowledged that the property belongs to Melecia.¹⁰³

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Rollo* (G.R. Nos. 185867-58), p. 559.

⁹⁸ G.R. No. 196023, April 21, 2014, 722 SCRA 623.

⁹⁹ *Id.* at 636-637.

¹⁰⁰ *Id.* at 637, citing *Estate of Margarita D. Cabacungan v. Laigo*, G.R. No. 175073, August 15, 2011, 655 SCRA 366, 380.

¹⁰¹ *Rollo* (G.R. Nos. 185867-58), pp. 561-562.

¹⁰² *Id.* at 123-124.

¹⁰³ *Id.* at 561-562.

Having established the creation of an implied resulting trust, the action for reconveyance filed by Gabutan, *et al.*, the heirs of Melecia in whose benefit the trust was created, is proper. An action for reconveyance is a legal and equitable remedy granted to the rightful landowner, whose land was wrongfully or erroneously registered in the name of another, to compel the registered owner to transfer or reconvey the land to him.¹⁰⁴ It will not amount to a collateral attack on the title, contrary to the allegation of Nacalaban, *et al.*¹⁰⁵ We explained in *Hortizuela v. Tagufa*:¹⁰⁶

x x x As a matter of fact, an action for reconveyance is a recognized remedy, an action *in personam*, available to a person whose property has been wrongfully registered under the Torrens system in another's name. In an action for reconveyance, the decree is not sought to be set aside. It does not seek to set aside the decree but, respecting it as incontrovertible and no longer open to review, seeks to transfer or reconvey the land from the registered owner to the rightful owner. Reconveyance is always available as long as the property has not passed to an innocent third person for value.

There is no quibble that a certificate of title, like in the case at bench, can only be questioned through a direct proceeding. The MCTC and the CA, however, failed to take into account that in a complaint for reconveyance, the decree of registration is respected as incontrovertible and is not being questioned. What is being sought is the transfer of the property wrongfully or erroneously registered in another's name to its rightful owner or to the one with a better right. If the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee, and the real owner is entitled to file an action for reconveyance of the property.¹⁰⁷

The fact that the property was already titled in Godofredo's name, and later transferred to the College, is not a hindrance to an action for reconveyance based on an implied trust. The title did not operate to vest ownership upon the property in favor of the College. As held in *Naval v. Court of Appeals*:¹⁰⁸

x x x Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to

¹⁰⁴ *Hortizuela v. Tagufa*, G.R. No. 205867, February 23, 2015, 751 SCRA 371, 386-387 citing *Leoveras v. Valdez*, G.R. No. 169985, June 15, 2011, 652 SCRA 61, 71.

¹⁰⁵ *Rollo* (G.R. Nos. 194314-15), pp. 10-11.

¹⁰⁶ G.R. No. 205867, February 23, 2015, 751 SCRA 371.

¹⁰⁷ *Id.* at 381-382, citing *Campos v. Ortega, Sr.*, G.R. No. 171286, June 2, 2014, 724 SCRA 240, 257; emphasis omitted.

¹⁰⁸ G.R. No. 167412, February 22, 2006, 483 SCRA 102.

enrich himself at the expense of others. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.¹⁰⁹

Moreover, the body of the Complaint filed by Gabutan, *et al.* shows that it is not only for the reconveyance of the property but also for the annulment of TCT No. T-111846 issued in the name of the College.¹¹⁰ Gabutan, *et al.* questioned the validity of the sale to the College and claimed co-ownership over the property. Thus, we can rule on the validity of TCT No. T-111846 since the Complaint is a direct attack on the title of the College.

b. The action for reconveyance is imprescriptible because the plaintiffs are in possession of the property

An action for reconveyance based on an implied or a constructive trust prescribes 10 years from the alleged fraudulent registration or date of issuance of the certificate of title over the property. However, an action for reconveyance based on implied or constructive trust is imprescriptible if the plaintiff or the person enforcing the trust is in possession of the property. In effect, the action for reconveyance is an action to quiet the property title, which does not prescribe.¹¹¹ The reason is that the one who is in actual possession of the land claiming to be its owner may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. His undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession.¹¹²

The fact of actual possession of Gabutan, *et al.* of the property, during the lifetime of Melecia and even after her death, is an undisputed and established fact. The College has even filed an ejectment case against the Heirs of Melecia for this reason.¹¹³ Thus, their complaint for reconveyance is imprescriptible. It follows, with more reason, that Gabutan, *et al.* cannot be held guilty of laches as the said doctrine, which is one in equity, cannot be set up to resist the enforcement of an imprescriptible legal right.¹¹⁴

¹⁰⁹ *Id.* at 113.

¹¹⁰ *Rollo* (G.R. Nos. 185857-58), pp. 378-380.

¹¹¹ *Francisco v. Rojas*, G.R. No. 167120, April 23, 2014, 723 SCRA 423, 455, citing *Vda. de Cabrera v. Court of Appeals*, G.R. No. 108547, February 3, 1997, 267 SCRA 339.

¹¹² *Ney v. Quijano*, G.R. No. 178609, August 4, 2010, 626 SCRA 800, 808, citing *Mendizabel v. Apao*, G.R. No. 143185, February 20, 2006, 482 SCRA 587, 609.

¹¹³ *Rollo* (G.R. Nos. 185857-58), pp. 175-178.

¹¹⁴ See *Brito, Sr. v. Dianala*, G.R. No. 171717, December 15, 2010, 638 SCRA 529, 539.

III. The property shall be reconveyed to the estate of Melecia

a. The Extrajudicial Settlement with Sale executed between Nacalaban, et al. and the College is void

Having established the creation of an implied resulting trust between Melecia and Godofredo, the law thereby creates the obligation of the trustee to reconvey the property and its title in favor of the true owner.¹¹⁵ The true owner, Melecia, died in 1997 and was succeeded by her children and grandchildren. The property, therefore, must be reconveyed to her estate.

The execution of the Extrajudicial Settlement with Sale between Godofredo's heirs and the College will not defeat the legal obligation to reconvey the property because at the time of its execution in 1996, Melecia was still alive. Hence, Nacalaban, *et al.* did not have the right or authority to sell the property. *Nemo dat quod non habet*. One can sell only what one owns or is authorized to sell, and the buyer can acquire no more right than what the seller can transfer legally.¹¹⁶ Nacalaban, *et al.* cannot find refuge in their argument that the property was registered in their father's name and that after his death, his rights passed to them as his legal heirs. To repeat, title to property does not vest ownership but is a mere proof that such property has been registered.¹¹⁷

b. The College is a buyer in bad faith

Despite the finding that the property was owned by Melecia and upon her death, by her heirs, the lower courts still sustained the ownership of the College of the property on the ground that it is an innocent purchaser for value.¹¹⁸ The lower courts' findings are grounded on the following: (i) Gabutan, *et al.*'s claim was never annotated on Godofredo's title; (ii) the Extrajudicial Settlement with Sale was duly published and the College was able to effect the transfer of the title in its name; (iii) Baldomera issued a certification in favor of Melecia allowing her to occupy a portion of the lot; and (iv) the tax declaration showed that Melecia owned only the building on the land owned by Godofredo.¹¹⁹

The RTC reiterated the rule that the buyer of a land registered under the Torrens System may rely upon the face of the certificate of title and does not have to look beyond it.¹²⁰ The CA, on the other hand, held that when

¹¹⁵ *Brito, Sr. v. Dianala*, *supra* at 537.

¹¹⁶ *Midway Maritime and Technological Foundation v. Castro*, G.R. No. 189061, August 6, 2014, 732 SCRA 193, 200, citing *Rufloe v. Burgos*, G.R. No. 143573, January 30, 2009, 577 SCRA 264, 272.

¹¹⁷ *Tong v. Go Tiat Kun*, *supra* note 98 at 637.

¹¹⁸ *Rollo* (G.R. Nos. 185857-58), p. 567.

¹¹⁹ *Id.* at 95.

¹²⁰ *Id.* at 567.

taken together, these facts would reasonably constitute enough reason for the College or any buyer to conclude that the property is free from any adverse claim, thereby making any further investigation unnecessary. Absent any showing that the College knew of the actual arrangement between Godofredo and Melecia, it must be deemed a buyer in good faith.¹²¹

Gabutan, *et al.* alleged that the lower courts erred in ruling that the College is a buyer in good faith, raising the following: (1) Nacalaban, *et al.* are not the registered owners of the property; Godofredo is the registered owner who died on January 7, 1974;¹²² (2) not being the registered owners, the College, as buyer, is expected to examine not only the certificate of title but all factual circumstances necessary for him to determine if there are any flaws in the title of the transferor, or in his capacity to transfer the property;¹²³ and (3) the College knew that other persons possessed the property so it should have first established the capacity of the Nacalaban children to sell the property.¹²⁴

Whether one is a buyer in good faith and whether due diligence and prudence were exercised are questions of fact.¹²⁵ As we have already mentioned, only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. We see an exception, however, to this general rule relative to the finding that the College is a buyer in good faith. We hold that the RTC's finding that the College is a buyer in good faith, which finding was upheld by the CA, was based on an obvious misapprehension of facts and was clearly not supported by law and jurisprudence.

In *Bautista v. Silva*,¹²⁶ we reiterated the requisites for one to be considered a purchaser in good faith:

A buyer for value in good faith is one who buys property of another, without notice that some other person has a right to, or interest in, such property and pays full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other persons in the property. He buys the property with the well-founded belief that the person from whom he receives the thing had title to the property and capacity to convey it.

To prove good faith, a buyer of registered and titled land need only show that he relied on the face of the title to the property. He need not prove that he made further inquiry for he is not obliged to explore beyond the four corners of the title. **Such degree of proof of good faith, however, is sufficient only when the following**

¹²¹ *Id.* at 95.

¹²² *Id.* at 57.

¹²³ *Id.*

¹²⁴ *Rollo* (G.R. Nos. 185857-58), p. 58.

¹²⁵ *Philippine National Bank v. Heirs of Estanislao Militar*, G.R. Nos. 164801 & 165165, June 30, 2006, 494 SCRA 308, 319.

¹²⁶ G.R. No. 157434, September 19, 2006, 502 SCRA 334.

conditions concur: first, the seller is the registered owner of the land; second, the latter is in possession thereof; and third, at the time of the sale, the buyer was not aware of any claim or interest of some other person in the property, or of any defect or restriction in the title of the seller or in his capacity to convey title to the property.

Absent one or two of the foregoing conditions, then the law itself puts the buyer on notice and obliges the latter to exercise a higher degree of diligence by scrutinizing the certificate of title and examining all factual circumstances in order to determine the seller's title and capacity to transfer any interest in the property. Under such circumstance, it is no longer sufficient for said buyer to merely show that he relied on the face of the title; he must now also show that he exercised reasonable precaution by inquiring beyond the title. Failure to exercise such degree of precaution makes him a buyer in bad faith.¹²⁷ (Emphasis supplied.)

Thus, the College, which has the burden to prove the status of being a purchaser in good faith, is required to prove the **concurrence** of the above conditions. This *onus probandi* cannot be discharged by mere invocation of the legal presumption of good faith.¹²⁸ We find that the College failed to discharge this burden.

Firstly, as correctly pointed out by Gabutan, *et al.*, Nacalaban, *et al.* are not the registered owners of the property, but Godofredo. In *Bautista v. Court of Appeals*,¹²⁹ we held:

However, it is important to note that petitioners did not buy the land from the registered owner, Dionisio Santiago. They bought it from his heirs, Maria dela Cruz and Jose Santiago.

Where a purchaser buys from one who is not the registered owner himself, the law requires a higher degree of prudence even if the land object of the transaction is registered. One who buys from one who is not the registered owner is expected to examine not only the certificate of title but all factual circumstances necessary for him to determine if there are any flaws in the title of the transferor, or in his capacity to transfer the land.¹³⁰

Secondly, the College was aware that aside from Nacalaban, *et al.*, the Heirs of Melecia, were also in possession of the property. The College cited the tax declaration which bore an annotation that Melecia owned a

¹²⁷ *Id.* at 346-348; cited in *Uy v. Fule*, G.R. No. 164961, June 30, 2014, 727 SCRA 456, 473-474.

¹²⁸ See *Sigaya v. Mayuga*, G.R. No. 143254, August 18, 2005, 467 SCRA 341, 354, citing *Potenciano v. Reynoso*, G.R. No. 140707, April 22, 2003, 401 SCRA 391, 401.

¹²⁹ G.R. No. 106042, February 28, 1994, 230 SCRA 446.

¹³⁰ *Id.* at 456, citing *Revilla and Fajardo v. Galindez*, 107 Phil. 480, 484 (1960).

residential building and Godofredo owned the lot.¹³¹ Also, apart from filing an ejectment case against the Heirs of Melecia, the College retained part of the purchase price for the demolition of Melecia's building as well.¹³²

In *Occeña v. Esponilla*,¹³³ we held that petitioner-spouses were not purchasers in good faith when they merely relied on the representation of the seller regarding the nature of possession of the occupants of the land:

In the case at bar, we find that petitioner-spouses failed to prove good faith in their purchase and registration of the land. x x x At the trial, Tomas Occeña admitted that he found houses built on the land during its ocular inspection prior to his purchase. **He relied on the representation of vendor Arnold that these houses were owned by squatters and that he was merely tolerating their presence on the land. Tomas should have verified from the occupants of the land the nature and authority of their possession instead of merely relying on the representation of the vendor that they were squatters, having seen for himself that the land was occupied by persons other than the vendor who was not in possession of the land at that time.** x x x¹³⁴ (Emphasis supplied.)

Although the College in its Answer alleged that it made an exhaustive investigation and verification from all reliable sources and found that the possession of Melecia and her heirs was merely tolerated,¹³⁵ it failed to specify who or what these sources were. There is no evidence that the College did inquire from Melecia or her heirs themselves, who were occupying the property, the nature and authority of their possession. It is not far-fetched to conclude, therefore, that the College merely relied on the representations of the sellers and the documents they presented. In this regard, the College is not a buyer in good faith.

The "honesty of intention" which constitutes good faith implies a **freedom from knowledge of circumstances which ought to put a person on inquiry.**¹³⁶ If the land purchased is in the possession of a person other than the vendor, the purchaser must be wary and must investigate the rights of the actual possessor.¹³⁷ Without such inquiry, the purchaser cannot be said to be in good faith and cannot have any right over the property.¹³⁸

We are aware that in the ejectment case, the MTCC and RTC ruled in favor of the College. We emphasize, though, that the ruling on the College's

¹³¹ *Rollo* (G.R. Nos. 185857-58), p. 192; 722-723.

¹³² TSN, September 16, 1998, pp. 12-15.

¹³³ G.R. No. 156973, June 4, 2004, 431 SCRA 116.

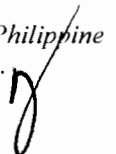
¹³⁴ *Id.* at 124.

¹³⁵ *Rollo* (G.R. Nos. 185857-58), p. 133.

¹³⁶ *Occeña v. Esponilla*, *supra*.

¹³⁷ *Santiago v. Villamor*, G.R. No. 168499, November 26, 2012, 686 SCRA 313, 321.

¹³⁸ *Id.*, citing *Tio v. Abayata*, G.R. No. 160898, June 27, 2008, 556 SCRA 175, 188-189 and *Philippine National Bank v. Heirs of Estanislao Militar*, G.R. Nos. 164801 & 165165, 494 SCRA 308, 315.

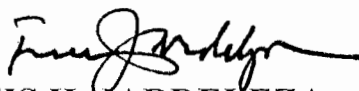


better right of possession was without prejudice to the eventual outcome of the reconveyance case where the issue of ownership was fully threshed out. We have held that the sole issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. When the defendant, however, raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.¹³⁹ Thus, the ruling on the ejectment case is not conclusive as to the issue of ownership.¹⁴⁰

WHEREFORE, in view of the foregoing, the petition for *certiorari* in G.R. Nos. 194314-14 is **DENIED** and the petition for review on *certiorari* in G.R. Nos. 185857-58 is **GRANTED**. The Decision of the Court of Appeals dated December 11, 2008 and its Resolution dated August 17, 2010 are **AFFIRMED** with the following **MODIFICATIONS**:

1. Cagayan Capitol College is hereby declared a buyer in bad faith, who has no right to possession and ownership of the property;
2. Nacalaban, *et al.* are ordered to return the purchase price paid on the property to the College, plus interest at the rate of six percent (6%) per annum computed from July 23, 1997¹⁴¹ until the date of finality of this judgment. The total amount shall thereafter earn interest at the rate of six percent (6%) per annum from the finality of judgment until its satisfaction;¹⁴² and
3. The Register of Deeds is ordered to cancel TCT No. T-111846 in the name of the College.
4. The property should be reconveyed to the Estate of the late Melecia Dalondonan with the institution of the proper proceedings for its partition and titling.

SO ORDERED.



FRANCIS H. JARDELEZA
Associate Justice

¹³⁹ *Go v. Looyuko*, G.R. No. 196529, July 1, 2013, 700 SCRA 313, 319.

¹⁴⁰ *Rodriguez v. Rodriguez*, G.R. No. 175720, September 11, 2007, 532 SCRA 642, 653.

¹⁴¹ Date of filing of the College's Answer with Affirmative Defenses, *rollo* (G.R. Nos. 185857-58), p. 43.

¹⁴² *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 457-458.

WE CONCUR:

PRESBITERO J. VELASCO, JR.

*Associate Justice
Chairperson*



DIOSDADO M. PERALTA

Associate Justice



JOSE PORTUAL PEREZ

Associate Justice



BIENVENIDO L. REYES

Associate Justice

ATTESTATION

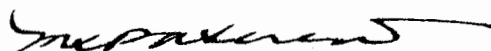
I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.

*Associate Justice
Chairperson, Third Division*

CERTIFICATION

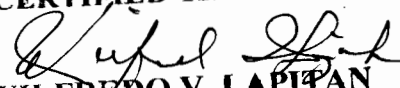
Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

CERTIFIED TRUE COPY



WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

AUG 04 2016