

## SECOND DIVISION

[ G.R. No. 215599, November 28, 2018 ]

**HEIRS OF GEMINIANO FRANCISCO, AS REPRESENTED BY ORLANDO FRANCISCO; HEIRS OF MARCIANO FRANCISCO, HEREIN REPRESENTED BY VICENTE FRANCISCO; HEIRS OF ISIDORA DAGALEA, HEREIN REPRESENTED BY ERASMO F. DAGALEA; HEIRS OF PRESENTACION F. BRAGANZA, HEREIN REPRESENTED BY CIRIO F. BRAGANZA; IGMIDIO FRANCISCO, HEREIN REPRESENTED BY LUDGARDA F. LIMEN; DONATO FRANCISCO, HEREIN REPRESENTED BY RAQUEL GAZMIN; AND PERFECTA F. GARCIA, HEREIN REPRESENTED BY MARIA LUISA G. GASPAR, PETITIONERS, V. THE HON. COURT OF APPEALS SPECIAL FORMER TWENTY SECOND (22ND) DIVISION, WELLINGTON VELASCO, AND HIS ATTORNEY-IN-FACT DR. EMILIANO TORRALBA, RESPONDENTS.**

### RESOLUTION

#### **CAGUIOA, J:**

Before the Court is a Petition for *Certiorari*<sup>[1]</sup> (Petition) under Rule 65 of the Rules of Court filed by the petitioners Heirs of Geminiano Francisco, *et al.* (collectively, the petitioners Heirs of Francisco) assailing the Resolution<sup>[2]</sup> dated August 20, 2014 (assailed Resolution) promulgated by the Court of Appeals<sup>[3]</sup> (CA) in CA-G.R. CV No. 02277-MIN, which (1) denied outright the petitioners Heirs of Francisco's Motion for Reconsideration<sup>[4]</sup> dated October 15, 2013 for being filed beyond the reglementary period and (2) directed the Division Clerk of Court to issue an Entry of Judgment,<sup>[5]</sup> considering that the Decision<sup>[6]</sup> dated August 19, 2013 of the CA attained finality due to the lack of a timely filed Motion for Reconsideration.

#### **The Facts and Antecedent Proceedings**

As narrated by the CA in its Decision dated August 19, 2013, the essential facts and antecedent proceedings of the instant case are as follows:

The crux of this dispute is a parcel of land located at Lot No. 9, Cad. 124, Boalan, Zamboanga City, containing an area of twenty (20) hectares [(subject property)], x x x

x x x x

On August 1, 1995, the [petitioners Heirs of Francisco] filed a [C]omplaint<sup>[7]</sup> for Annulment of Title, Reconveyance of Real Property and Damages with a Prayer for a Writ of Preliminary Injunction or Temporary Restraining Order [(Complaint)] before the Regional Trial Court, Branch

12, Zamboanga City [(RTC)] [against the private respondents herein Wellington Velasco (Velasco) and Dr. Emiliano Torralba (Torralba)].

The [petitioners Heirs of Francisco] allege, among other things, that they are the heirs of the late Jaime Francisco, who, they claim, is the original occupant and owner of the subject property since 1918 up to the time of his death in 1957 or for a period of more than thirty (30) years; that even after the latter's death until the present, the [petitioners Heirs of Francisco], as heirs, continued to occupy the subject property and had established their residence therein under a claim of ownership in open, exclusive, adverse and continuous occupation thereof for a total of seventy-seven (77) years.

x x x x

For his part, [Torralba] avers in his [A]nswer that he was designated by [Velasco] as a caretaker of the subject property but denies any assertion made by the [petitioners Heirs of Francisco] that he is the lawful representative of [Velasco].

x x x x

Subsequently, [Velasco] filed an [A]nswer with counterclaim before the [RTC] stating, among other things, that he is the true, lawful and absolute owner in fee simple of the subject property. He claims that his possession over the same was unlawfully and wantonly disturbed by the [petitioners Heirs of Francisco].

x x x [T]he claim of the [petitioners Heirs of Francisco] has been waived, abandoned or otherwise extinguished in view of their execution of a Deed of Quitclaim on July 8, 1968 and x x x has prescribed since reconveyance of property under the Land Registration Act on the ground of fraud prescribes in four (4) years from the issuance of the certificate of title.

Velasco further contends that the principle of *res judicata* is applicable in the case at bar since the cause of action is barred by prior judgment, the same having been decided between the same parties in the case entitled *Francisco Dagalea vs. Wellington Velasco*, docketed as MNR Case No. 6099 which has long become final and executory on May 2, 1983, and that on October 3, 1983, the National Land Titles and Deeds Registration Administration (NLTDRA) issued Original Certificate of Title No. P-3,760 in his favor.

x x x x

On July 28, 2009, the [private respondents] filed a Motion for Demurrer to Evidence which the [RTC] granted in its Order dated November 26, 2009. The dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the motion to dismiss on demurrer to evidence filed by the defendant, Wellington Velasco through counsels is hereby GRANTED and the above-entitled case is hereby ordered DISMISSED for insufficiency of evidence and that the action filed is not the proper remedy available to the plaintiffs based on the facts and circumstances

as presented which this Court believes should have been one for action for reversion which nevertheless may only be initiated by the Solicitor General as mandated by law.

Hence, [the petitioner filed an appeal with the CA assailing the Order dated November 26, 2009 issued by the RTC dismissing their Complaint.]

[8] (Italics supplied)

### **The Ruling of the CA**

In its Decision dated August 19, 2013, the CA dismissed the petitioners Heirs of Francisco's appeal for lack of merit.

As claimed by the petitioners Heirs of Francisco, they received a copy of the CA's Decision dated August 19, 2013 on September 30, 2013. The petitioners Heirs of Francisco admit that they only had until October 16, 2013<sup>[9]</sup> to file a Motion for Reconsideration.<sup>[10]</sup>

The petitioners Heirs of Francisco maintain that they were able to serve and file their Motion for Reconsideration dated October 15, 2013 *via* **courier service** on October 16, 2013.<sup>[11]</sup>

However, in the assailed Resolution, the CA found that petitioners Heirs of Francisco's Motion for Reconsideration was filed **only on December 6, 2013**.<sup>[12]</sup> Hence, the CA denied outright the petitioners Heirs of Francisco's Motion for Reconsideration, "considering that the period to file a Motion for Reconsideration is not extendible."<sup>[13]</sup>

Consequently, the CA directed the Division Clerk of Court to issue "an Entry of Judgment for the above entitled case, pursuant to to (sic) Section 3(b), Rule IV and Section 1, Rule VII, of the Internal Rules of the Court of Appeals, as amended, considering that the August 19, 2013 Decision has attained finality for lack of a timely filed Motion for Reconsideration or a petition before the Supreme Court."<sup>[14]</sup>

Hence, the instant Petition.

On April 28, 2015, the private respondents filed their Comment<sup>[15]</sup> to the Petition. On February 29, 2016, the private respondents filed a Manifestation and Motion to Deny Petition.<sup>[16]</sup>

On April 19, 2016, the Court issued a Resolution<sup>[17]</sup> requiring the petitioners Heirs of Francisco to file a Reply to the private respondents' Manifestation and Motion to Deny Petition within ten (10) days from notice. The records reveal that the petitioners Heirs of Francisco failed to file a Reply as required by the Court.

### **Issue**

In the instant Petition, the petitioners Heirs of Francisco raise a singular issue to be resolved by the Court: whether the CA committed grave abuse of discretion in issuing the assailed Resolution denying outright the petitioners Heirs of Francisco's Motion for Reconsideration and ordering Entry of Judgment due to the failure of petitioners Heirs of Francisco to timely file a Motion for Reconsideration.