

SECOND DIVISION

[G.R. No. 138842, October 18, 2000]

**NATIVIDAD P. NAZARENO, MAXIMINO P. NAZARENO, JR.,
PETITIONERS, VS. COURT OF APPEALS, ESTATE OF MAXIMINO A.
NAZARENO, SR., ROMEO P. NAZARENO AND ELIZA NAZARENO,
RESPONDENTS.**

DECISION

MENDOZA, J.:

This is a petition for review on certiorari of the decision^[1] of the Court of Appeals in CA-GR CV No. 39441 dated May 29, 1998 affirming with modifications the decision of the Regional Trial Court, Branch 107, Quezon City, in an action for annulment of sale and damages.

The facts are as follows:

Maximino Nazareno, Sr. and Aurea Poblete were husband and wife. Aurea died on April 15, 1970, while Maximino, Sr. died on December 18, 1980. They had five children, namely, Natividad, Romeo, Jose, Pacifico, and Maximino, Jr. Natividad and Maximino, Jr. are the petitioners in this case, while the estate of Maximino, Sr., Romeo, and his wife Eliza Nazareno are the respondents.

During their marriage, Maximino Nazareno, Sr. and Aurea Poblete acquired properties in Quezon City and in the Province of Cavite. It is the ownership of some of these properties that is in question in this case.

It appears that after the death of Maximino, Sr., Romeo filed an intestate case in the Court of First Instance of Cavite, Branch XV, where the case was docketed as Sp. Proc. No. NC-28. Upon the reorganization of the courts in 1983, the case was transferred to the Regional Trial Court of Naic, Cavite. Romeo was appointed administrator of his father's estate.

In the course of the intestate proceedings, Romeo discovered that his parents had executed several deeds of sale conveying a number of real properties in favor of his sister, Natividad. One of the deeds involved six lots in Quezon City which were allegedly sold by Maximino, Sr., with the consent of Aurea, to Natividad on January 29, 1970 for the total amount of P47,800.00. The Deed of Absolute Sale reads as follows:

DEED OF ABSOLUTE SALE

KNOW ALL MEN BY THESE PRESENTS:

I, MAXIMINO A. NAZARENO, Filipino, married to
Aurea Poblete-Nazareno, of legal age and a

resident of the Mun. of Naic, Prov. of Cavite,
Philippines, -

W I T N E S S E T H -

That I am the absolute registered owner of six (6)
parcels of land with the improvements thereon
situated in Quezon City, Philippines, which parcels
of land are herewith described and bounded as
follows, to wit:

"TRANS. CERT. OF TITLE NO. 140946"

"A parcel of land (Lot 3-B of the subdivision plan
Psd-47404, being a portion of Lot 3, Block D-3
described on plan Bsd-10642, G.L.R.O. Record No.)
situated in the Quirino District, Quezon City.
Bounded on the N., along line 1-2 by Lot 15, Block
D-3 of plan Bsd - 10642; along line 2-3 by Lot 4,
Block D-3 of plan Bsd-10642; along line 3-4 by
Aurora Boulevard (Road Lot-1, Bsd-10642); and
along line 4-1 by Lot 3-D of the subdivision plan.
Beginning at a point marked "1" on plan, being
S.29 deg. 26'E., 1156.22 m. from B.L.L.M. 9,
Quezon City,

thence N. 79
deg. 53'E., 12.50
m. to point 2;
thence S. 10 deg.
07'E., 40.00 m.
to point 3;
thence S. 79 deg.
53'W., 12.50 m.
to point 4;
thence N. 10
deg. 07'W., 40.00
m. to the point

of beginning; containing an area of FIVE HUNDRED
(500) SQUARE METERS. All points referred to are
indicated on the plan and are marked on the
ground as follows: points "1" and "4" by P.L.S. Cyl.
Conc. Mons. bearings true; date of the original
survey, April 8-July 15, 1920 and that of the
subdivision survey, March 25, 1956."

"TRANS. CERT. OF TITLE NO. 132019"

"A parcel of land (Lot 3, Block 93 of the subdivision
plan Psd-57970 being a portion of Lot 6, Pcs-4786,
G.L.R.O. Rec. No. 917) situated in Quirino District
Quezon City. Bounded on the NW., along line 1-2,
by Lot 1, Block 93; on the NE., along line 2-3, by

Road Lot 101; on the SE., along line 3-4, by Road Lot 100; on the SW., along line 4-1, by Lot 4, Block 93; all of the subdivision plan. Beginning at point marked "1" on plan, being S. 65 deg. 40' 3339.92 m. from B.L.L.M. No. 1, Marikina, Rizal;

thence N. 23 deg. 28
min. E., 11.70 m. to
point "2";

thence S. 66 deg. 32
min. E., 18.00 m. to
point "3";

thence S. 23 deg. 28
min. W., 11.70 m. to
point "4";

thence N. 66 deg. 32.
min. W., 18.00 m. to the
point

of beginning; containing an area of TWO HUNDRED TEN SQUARE METERS AND SIXTY SQUARE DECIMETERS (210.60). All points referred to are indicated on the plan and are marked on the ground by B.L. Cyl. Conc. Mons. 15 x 60 cm.; bearings true; date of the original survey, Nov. 10, 1920 and Jan. 31-March 31, 1924 and that of the subdivision survey, February 1 to September 30, 1954. Date approved - March 9, 1962."

"TRANS. CERT. OF TITLE NO. 118885"

"A parcel of land (Lot No. 10, of the consolidation and subdivision plan Pcs-988, being a portion of the consolidated Lot No. 26, Block No. 6, Psd-127, and Lots Nos. 27-A and 27-B, Psd-14901, G.L.R.O. Record No. 917), situated in the District of Cubao, Quezon City, Island of Luzon. Bounded on the NE., by Lot No. 4 of the consolidation and subdivision plan; on the SE., by Lot No. 11 of the consolidation and subdivision plan; on the SW., by Lot No. 3 of the consolidation and subdivision plan; and on the NW., by Lot No. 9 of the consolidation and subdivision plan. Beginning at a point marked "1" on the plan, being S. 7 deg. 26'W., 4269.90 m. more or less from B.L.L.M. No. 1, Mp. of Marikina;

thence S. 25 deg. 00'E.,
12.00 m. to point "2";

thence S. 64 deg. 59'W.,
29.99 m. to point "3";

thence N. 25 deg. 00'W.,
12.00 m to point "4";

thence N. 64 deg. 59'E.,
29.99 m. to the point of

beginning; containing an area of THREE HUNDRED SIXTY SQUARE METERS (360), more or less. All points referred to are indicated on the plan and on the ground are marked by P.L.S. Conc. Mons. 15 x 60 cm.; bearings true; declination 0 deg. 50'E., date of the original survey, April 8 to July 15, 1920, and that of the consolidation and subdivision survey, April 24 to 26, 1941." "TRANS. CERT. OF TITLE NO. 118886"

"A parcel of land (Lot No. 11, of the consolidation and subdivision plan Pcs-988, being a portion of the consolidated Lot No. 26, Block No. 6, Psd-127, and Lots Nos. 27-A and 27-B, Psd-14901, G.L.R.O. Record No. 917), situated in the District of Cubao, Quezon City, Island of Luzon. Bounded on the NE., by Lot No. 4 of the consolidation and subdivision plan; on the SE., by Lot No. 12 of the consolidation and subdivision plan; on the SW., by Lot No. 3 of the consolidation and subdivision plan; on the NW., by Lot No. 10 of the consolidation and subdivision plan. Beginning at a point marked "1" on plan, being S. 79 deg. 07'W., 4264.00 m. more or less from B.L.L.M. No. 1, Mp. of Mariquina;

thence S. 64 deg. 59'W.,
29.99 m. to point "2";
thence N. 25 deg. 00'W.,
12.00 m. to point "3";
thence N. 64 deg. 59'E.,
29.99 m. to point "4";
thence S. 26 deg. 00'E.,
12.00 m. to the point of

beginning; containing an area of THREE HUNDRED SIXTY SQUARE METERS (360), more or less. All points referred to are indicated on the plan and on the ground, are marked by P.L.S. Conc. Mons. 15 x 60 cm.; bearings true; declination 0 deg. 50'E.; date of the original survey, April 8 to July 15, 1920, and that of the consolidation and subdivision survey, April 24 to 26, 1941."

thence S. 64 deg.
59'W., 29.99 m. to
point "2";
thence N. 25 deg.
00'W., 12.00 m. to
point "3";

thence N. 64 deg.
59'E., 29.99 m. to
point "4";
thence S. 26 deg.
00'E., 12.00 m. to
the point of

"A parcel of land (Lot No. 13 of the consolidation and subdivision plan Pcs-988, being a portion of the consolidated Lot No. 26, Block No. 6, Psd-127, and Lots Nos. 27-A and 27-B, Psd-14901, G.L.R.O. Record No. 917), situated in the District of Cubao, Quezon City, Island of Luzon. Bounded on the NE., by Lot No. 4 of the consolidation and subdivision plan; on the SE., by Lot No. 14, of the consolidation; and subdivision plan; on the SW., by Lot No. 3 of the consolidation and subdivision plan; and on the NW., by Lot No. 12, of the consolidation and subdivision plan. Beginning at the point marked "1" on plan, being S.78 deg. 48'W., 4258.20 m. more or less from B.L.L.M. No. 1, Mp. of Mariquina;

thence S. 64 deg.
58'W., 30.00 m.
to point "2";
thence N. 25
deg. 00'W., 12.00
m. to point "3";
thence N. 64
deg. 59'E., 29.99
m. to point "4";
thence S.25 deg.
00'E., 12.00 m.
to point of

beginning; containing an area of THREE HUNDRED SIXTY SQUARE METERS (360, more or less. All points referred to are indicated on the plan and on the ground are marked by P.L.S. Conc. Mons. 15 x 60 cm.; bearings true; declination 0 deg. 50'E., date of the original survey, April 8 to July 15, 1920, and that of the consolidation and subdivision survey, April 24 to 26, 1941."

"A parcel of land (Lot No. 14, of the consolidation and subdivision plan Pcs-988, being a portion of the consolidated Lot No. 26, Block No. 6, Psd-127, and Lots Nos. 27-A and 27-B, Psd-14901, G.L.R.O. Record No. 917), situated in the District of Cubao, Quezon City, Island of Luzon. Bounded on the NE., by Lot No. 4 of the consolidation and subdivision