

### **HEIRS LIEN III: The 2-Year Lien's Application to Excluded Heirs**

In the past couple of weeks, we have been discussing the 2-year lien annotation present in newly inherited properties. We explained that its purpose is to give excluded heirs the chance to recover their share in the inheritance in the event that they are unlawfully excluded and that potential buyers should be wary of it.

But what if the land to be inherited was bought within the effectivity of the 2-year lien but the period expires thereafter? Does this mean that the excluded heirs no longer have any recourse to recover their share?

In a fairly recent case, the Supreme Court gave the reminder that this 2-year deadline only applied to *valid partitions*.

Anuncacion married twice during her lifetime. When she died in 1977, she left behind heirs from both marriages. In 1979, an "Extra-Judicial Settlement with Sale" was executed by the heirs from the second marriage that effectively excluded the heirs from her first marriage. The inherited property was sold to the Spouses Uy.

In 1996, the excluded heirs sought to enforce their inheritance rights and annul the sale. In their defense, the Spouses Uy raised the issue that the action was brought beyond the 2-year lien period.

The Supreme Court sided with the excluded heirs and reiterated the doctrine that the 2-year period granted to prejudiced heirs from when to challenge a deed of extrajudicial settlement does **not** apply to invalid partitions. The law on the matter specifically states that heirs are not bound by extrajudicial settlements excluding them. In no less categorical terms, it was ruled that an extrajudicial settlement which failed to include all the heirs is "a total nullity". It is *not valid*. This being the case, the excluded heirs can challenge the partition even beyond the 2-year period.

Considering that the partition among the heirs of the first marriage was clearly null and void, what about the corresponding sale to the Spouses Uy? The same was also void...but only in part.

It should be remembered that a co-heir has the absolute right to sell their "share" in the inheritance. Therefore, even after disregarding the invalid partition, the heirs of the first marriage were still free to sell their "share" to the Spouses Uy. The sale to

the Spouses Uy was then valid and will be recognized only insofar as the heirs who actually participated in the extrajudicial settlement were concerned.

In effect, a buyer in this situation becomes a new co-owner along with the excluded heirs.

*(Based on G.R. No. 194366, October 10, 2012)*