

HEIRS OF BONIFACIO PANEDA, PLAINTIFF-APPELLANT, VS. ALFREDO JAVARATA, DEFENDANT-APPELLEE.

CV No. 87597, January 31, 2008

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Court of Appeals

On appeal is the Decision[1] dated June 29, 2005 of the Regional Trial Court (RTC), Agoo, La Union, Branch 31, dismissing, on the ground of prescription, the Complaint[2] in Civil Case No. A-2316, For Accion Reinvidicatoria, Accion Publiciana, With damages and Application for a Writ of Receivership.

The subject of this case is a parcel of land consisting of 48,612 square meters, designated as Lot 1575 of Rosario Cadastre, situated in Vila, Rosario, La Union, covered by Original Certificate of Title No. 4935[3] and originally claimed by Bonifacia Oficiar[4].

In their Complaint filed on July 20, 2004 with the RTC of La Union, plaintiff-appellants Heirs of Bonifacio Paneda (namely: Clara P. Aguada, Concepcion P. Aguada, Jose P. Aguada, Rosita C. Paneda, Artemio Paneda, Roberto Paneda, Nina L. Paneda, Bonifacio L. Paneda, Violeta P. Mapile, and Magie P. Mapile) claimed that July 22, 1938, in a document written in Spanish entitled "Escritura De Venta Definitiva"[5], Bonifacia Oficiar sold the property to their predecessor-in-interest, Bonifacio Paneda; and that upon the death of Bonifacio[6], the property was inherited by them through succession.

The Heirs decided to partition the estate of Bonifacio, thus they conducted an inventory of his properties and had Lot 1575 surveyed. It was at this point that they learned that the lot was being occupied and claimed by defendant-appellee Alfredo Aravata. When the heirs confronted Alfredo, he asserted that he owned the property, the same having been sold to his family by its original owner. Thus, they were' constrained to file the herein Complaint to recover the ownership and possession of the subject lot.

In his Answer With Motion To Dismiss and Compulsory Counterclaim[7], Alfredo countered that the claims ownership of only the eastern portion of the subject lot, and that the eastern portion is being occupied by other persons. According to him, the said eastern portion had been sold and delivered by Bonifacia Oficiar and Macario Nana in 1933 to Esteban Javarata, his predecessor-in-interest, who since then and until his death had been in open, peaceful, exclusive, adverse and notorious possession as the absolute and bona fide owner. He averred that the Heirs' claim of ownership is based on a fake, spurious and unregistered document.

Bonifacio further contended that the present tenants of the property could attest that their own fathers and predecessors had worked thereon as tenants of Bonifacia Oficiar and later, of Esteban Javarata, as the land's subsequent owner. Tacking his possession of that of his predecessor, the lot has been in their possession for not less than seventy (70) years. Bonifacio thus prayed that the Complaint be dismissed on the ground of prescription.

Hearings on the motion to dismiss incorporated in the answer were conducted by the trial court. Alfredo presented witnesses[8] who testified in the main that Alfredo occupied only the eastern portion of Lot 1575 which is already traversed by a barangay road[9]; that since 1933, they were cultivating the subject lot and delivered the share of the produce to the land-owner Esteban Javarata, and his death, to his son Alfredo[10]; and that the tenants

cultivating the land are tenants of Alfredo. [11] For his part, Alfredo testified that the eastern portion consists of 28,000 square meters, and that the deed evidencing the sale of the land between Oficiar and his father was lost when his father's nipa hut was gutted by fire.[12]

On June 29, 2005, the trial court issued the assailed Decision dismissing the Complaint on the ground of prescription. According to the court, "defendant (by tacking) had shown that he or his predecessors in interest had been in actual, notorious, open, exclusive and adverse possession for more than thirty (30) years of the lot in question."

The heirs interpose this appeal, assigning as errors the following:

"THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN HOLDING THAT PLINTIFFS7APPELLANTS' CAUSE OF ACTION HAS PRESCRIBED, AND BASED ON SAID PRESCRIPTION, DISMISSED THE CASE.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN HOLDING THAT THE DEFENDANT/APPELLEE HAD ACQUIRED A VESTED RIGHT OVER THE LAND COVERED BY CADASTRAL LOT NO. 1575 BY MEANS OF ACQUISITIVE PRESCRIPTION DESPITE THE FACT THAT THE DOCUMENTS UPON WHICH DEFENDANT/APPELLEE HAS BASED HIS CLAIM INVOLVES LOT NO. 1627.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO LA UNION, ERRED IN DECIDING THE CASE IN FAVOR OF THE DEFENDANT/ APPELLEE BASED SOLELY ON THE TESTIMONY OF BONIFACIO PANEDA.

THE REGIONAL TRIAL COURT, BRANCH 31 OF AGOO, LA UNION, ERRED IN NOT HOLDING THAT THE HEREIN PLAINTIFS/APPELLANTS ARE ENTITLED TO THE OWNERSHIP OF THE PROPERTY IN DISPUTE."

The appeal must be dismissed.

Two issues are herein presented: first, whether appellants' action is barred by extinctive prescription; and second, whether appellee acquired ownership of the property in question through acquisitive prescription.

First. On extinctive prescription, Article 1141 the law draws a time corridor within which the propel a suit for recovery of property, viz:

"Real actions over immovables prescribe after thirty years.

This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription."

Against appellee's claim of ownership over the subject land, appellants marshall the Escritura De Venta Definitiva purportedly executed by Bonifacia Oficiar conveying Lot 1575 to Bonifacio Paneda. Appellants claim that while the document was dated July 22, 1938, extinctive prescription should not bar the action to recover since they first had knowledge of appellee's claim over the property only in 2003.

Appellants err. Their cause of action no longer subsists.

A cause of action being an act or omission of one party in violation of the right of another arises at the moment such right is violated. In the instant case, appellee's testimonial evidence sufficiently proved that his predecessor-in-interest adversely possessed the property for more than thirty (30) years. From the moment of adverse possession, appellants' (or their predecessor-in-interest's) right of ownership was transgressed and from that very moment sprang the right of the purported owner, and all successors-in-interest, to file a suit of

reconveyance. Thus, applying the 30-year prescriptive period in accordance with the above legal provision, appellants' right to recover had already been effectively foreclosed by the lapse of time when the Complaint was filed in 2004.

Moreover, the Escritura De Venta Definitiva by itself is insufficient to make appellants owners of the property. For while a contract of sale is perfected by the meeting of minds upon the thing which is the object of the contract and upon the price,[13] the ownership of the thing sold is not transferred to the vendee until actual or constructive delivery of the property.[14] *Non nudis pactis, set traditione dominia dominica rerum transferuntur* - not mere agreements but tradition transfers the ownership of things. Consequently, appellants cannot claim that they are the owners of the subject lot since from their own admission in the Complaint, it has not been delivered to them. They did not even know the metes and bounds of the lot as they had to look at the Cadastral survey to pinpoint its location. It appears that at the time of the purported sale, the property was in the possession of appellee's father.

Second, appellee already acquired the , land by acquisitive prescription. On this point, the Civil Code provides:

"Art. 1117. Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.

Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law."

"Art. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years."

"Art. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith."

Thus, depending on whether the property is possessed in good faith and with just title for the time fixed by law, acquisitive prescription of dominion and other real rights may be ordinary or extraordinary. For the purposes of prescription, there is just title when the adverse claimant came into possession of the property through one of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor was not the owner or could not transmit any right.[15] Good faith consists in the reasonable belief that the person from whom the possessor received the thing was its owner but could not transmit the ownership thereof.[16]

Appellee contends that his father acquired just title to the property through sale. Aside from his uncorroborated testimony, however, no other evidence was presented to prove the alleged sale. We thus rule that he did not have just title to Lot 1575, hence, an uninterrupted adverse possession of thirty years is needed to acquire the property through prescription.

Appellants fault the trial court for relying solely on the testimony of witness Bonifacio Paneda, Jr. in finding that appellee's predecessor-in-interest possessed the land since 1933. The is inaccurate. The trial court pointed out in its Decision that the substance of the testimony of Bonifacio Paneda, Jr. was strengthened by that of 81-year old Apolinario Estacio who became a neighbor of Estaban Jaravata sometime in 1954. Apolinario testified that he used to spray the mangoes planted on Lot 1575, and gave the owner's share of the proceeds to Estaban Jaravata.[17] As correctly ratiocinated by the trial court, even if the period of acquisitive prescriptive would be counted from 1954, a half century of notorious, open, and adverse possession was sufficiently established by appellee.

In fine, from whatever legal angle the case is viewed, either on extinctive prescription or acquisitive prescription, appellants' Complaint is indeed dismissible.

WHEREFORE, for lack of merit, the appeal is DISMISSED.

SO ORDERED.

Bersamin and Perlas-Bernabe, JJ., concur.

[1] Records, pp. 178-200.

[2] Id., pp. 1-7.

[3] As alleged in the Complaint, copy of PCT No. 4935 was destroyed during the war.

[4] Per Bureau of Lands Cadastral Cost Register, Exh. "8", Records, p. 79.

[5] Exhibit "M", Records, p. 135.

[6] The exact date of his death was not established, what was established was he died during the war. See TSN, January 10, 2005, p. 15.

[7] Records, pp. 19-29.

[8] Bonifacio Paneda Jr., Apolinario Estacio, Mario Paneda, Domingo Perez, Domingo Manaois, and Alfredo Javarata.

[9] Testimony of Domingo Perez, TSN, October 25, 2004, p. 5.

[10] Testimony of Bonifacio Paneda, Jr., TSN, September 22, 2004, pp. 4-5-12.

[11] Testimony of Domingo Manaois, TSN, December 22, 2004, pp. 15-16.

[12] Testimony of Alfredo Javarata, TSN, November 22, 2004, p. 12.

[13] Article 1475, New Civil Code.

[14] Art. 1477, New Civil Code.

[15] Article 1129, New Civil Code.

[16] Article 526, New Civil Code.

[17] Testimony of Apolinario Estacio, TSN, October 13, 2004, pp. 6-7.

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