

**SPOUSES NICETO Z. LIMPIADO AND LOLITA L. LIMPIADO,
PLAINTIFFS-APPELLANTS, VS. ELEN A. DIU AND THE PROVINCIAL
ASSESSOR OF BILIRAN, DEFENDANTS-APPELLEES.**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to nullify the Decision[2] dated February 26, 2010, rendered by the Regional Trial Court (RTC), Branch 16, Naval Biliran in Civil Case No. B-1111, the decretal portion whereof is hereunder quoted:

“WHEREFORE, the court hereby renders judgment in favor of the defendants and against the plaintiff ordering:

- That the complaint is hereby DISMISSED.
- That private defendant Elen Diu is the lawful and absolute owner of the disputed sixty-six (66) square meters portion of land.
- Plaintiffs to pay cost.

SO ORDERED.” (Bold letters in the original)

Factual Antecedents

On August 14, 2000, plaintiffs-appellants, Sps. Niceto and Lolita Limpiado (Sps. Limpiado) filed a Complaint[3] before the RTC for Declaration of Nullity of Documents, Quieting of Title and Damages against defendants-appellees, Elen A. Diu (Elen) and the Provincial Assessor of Biliran docketed as Civil Case No. B-1111.

Sps. Limpiado averred that on August 23, 1978, they bought a parcel of land with wooden house from Trinidad Ebio. Thereafter, they possessed the land, declared it in their name and paid the realty taxes therefor. Under revision 5, the residential lot was declared in their name under Tax Dec. No. 5630[4]. The area stated in the tax declaration was 176 square meters which was consistent with the Deed of Absolute Sale[5]. However, in revision 6, the area of their land under Tax Dec. No. 37[6] was reduced to 110 square meters without their knowledge and consent. Upon investigation they found out that the area of their land was reduced by 66 sq. m. because it was included in the adjoining land allegedly owned by Elen. The 66-square meter portion which has an estimated assessed value of about P24,750.00 is part of the lot where Sps. Limpiado began constructing a new building. It is a subject of a forcible entry case filed by Elen against them.[7]

Further investigation showed that Elen acquired the adjoining land by donation[8] from Benjamin Diu (Benjamin) her father. Benjamin acquired the property by purchase[9] from Juanito Limpiado (Juanito). In turn Juanito acquired the land by purchase from Leoncio Limpiado who also acquired it by purchase from Cirilo Beron.[10]

However, Leoncio Limpiado never sold the said land to Juanito. Hence, the latter never acquired the property and become its owner. He was neither a child nor an heir of Leoncio Limpiado.[11]

The Deed of Absolute Sale executed by Juanito in favor of Benjamin was an absolute nullity since the former is not the owner of the land and he had no power or right to alienate the land to anybody. Likewise, Benjamin could not validly donate the land to Elen since he did not validly acquire the subject property.[12]

Thus, Sps. Limpiado asserted that the Deed of Donation and the Deed of Absolute Sale relied by Elen are void or invalid. Elen's claim of ownership based on the said documents casts a cloud on Sps. Limpiado's title over the subject 66-square meter portion.[13]

In response, Elen filed her Answer with Counterclaim[14] on December 1, 2000. She admitted that existence of the Deed of Sale from Trinidad Ebio to Sps. Limpiado with the qualification that the sale is valid only up to an area of 110 sq. m. and not 176 sq. m. as erroneously stated therein. The reason is that Trinidad Ebio, way back on July 22, 1957 had already sold a portion of the same land, containing an area of 66 sq. m. to Leoncio M. Limpiado. She has been in open, continuous, public and adverse possession in the concept of an owner over the 66 sq. m. portion since 1957, a period of 43 years including the possession of Leoncio Limpiado and Benjamin. The appellants have never set foot on the subject portion of land. It has been used as a road or a foot path from Vicentillo St. to the land formerly owned by Cirilo Biron ever since the time of Leoncio Limpiado in 1957 when he erected a house and an electric plant thereon. Hence, in the Deed of Sale in favor of the appellants, the correct area should be 110 sq. m. only and not 176 sq. m. Obviously, the reduction of the area was done to correct a manifest error. The Office of the Provincial Assessor, who made the reduction, is presumed have performed its function regularly and in good faith.[15]

Elen denied the allegation that the 66-sq. m. portion is part of the lot of Sps. Limpiado. The Forcible Entry case (Civil Case No. 507, MTC, Naval, Biliran) reached the Court of Appeals which affirmed the ruling of the MTC that she is the lawful possessor of the land since she had established prior physical possession. She admitted the existence of the Deed of Donation dated January 6, 1990. Immediately thereafter, she paid the taxes of the property and caused the transfer of the tax declaration to her name. Likewise, she admitted the allegation and the Deed of Sale that Benjamin acquired the land from Juanito. She, however, clarified that the land subject of the sale under TD 6178 in the name of Leoncio Limpiado does not only refer to the 66 sq. m. portion but it is a consolidation of the 66 sq. m. portion bought by Leoncio Limpiado from Trinidad Ebio and the land bought by Leoncio Limpiado from Cirilo Biron. The reason why Leoncio Limpiado bought the two parcels of land at the same time is understandable because the 66 sq. m. portion was utilized by him as a road from Vicentillo St. to the bigger portion he bought from Cirilo Biron where he constructed his house and electric plant.[16]

Further, Elen acknowledged that Juanito acquired the land by purchase from Leoncio Limpiado as stated in the Deed of Sale. She clarified that the disputed 66 sq. m. portion did not come from Cirilo Biron but rather from Trinidad Ebio. She stressed that Benjamin is a purchaser for value and in good faith and has the perfect right to donate the land to her as his daughter.[17]

Lastly, Elen interposed the following by way of affirmative defenses[18]:

- Sps. Limpiado have no cause of action and they are not the real party in interest.
- Sps. Limpiado's right to question the sale has already prescribed.
- Defendant or Benjamin is already the owner of the 66 sq. m. portion by ordinary prescription having acquired it with a just title and in good faith.
- She has already acquired the land by extraordinary prescription.

After Sps. Limpiado filed their answer to the counterclaim, the parties appeared before the clerk of court to mark

the documents. Thereafter, the clerk of court submitted the minutes of the pre-trial conference. In an Order of the trial court dated July 13, 2005, it was agreed that the issue to be resolved is whether the 66 sq. m. portion is owned by the Sps. Limpiado or by Elen. Subsequently, the Sps. Limpiado filed a motion to allow amendment to the pre-trial order to correct that it is Francisco Ebio who will be presented as their witness and not Trinidad Ebio. On the other hand, Elen also filed a motion to allow amendments to pre-trial order to include the following issues: (1) whether defendant had already acquired the land thru acquisitive prescription; (2) whether appellants' action is barred by prescription or laches; and (3) whether the appellants are the real parties in interest.[19]

Thereafter, trial on the merits ensued.

After trial the RTC rendered the assailed Decision[20] on February 26, 2010.

Aggrieved, Sps. Limpiado are now before this Court via Rule 41 of the Rules of Court, proffering the following assignment of errors[21]:

“I. THE LOWER COURT ERRED IN NOT FINDING THAT THE TRANSFER OF THE 66 SQUARE METER PORTION FROM TRINIDAD EBIO/APPELLANTS TO THE NAME OF BENJAMIN DIU/APPELLEE WAS DONE WITHOUT DUE PROCESS OF LAW AND THEREFORE NULL AND VOID.

II. THE LOWER COURT ERRED IN RULING THAT THE APPELLEE HAD ACQUIRED THE DISPUTED 66 SQUARE METERS BY PRESCRIPTION.

III. THE LOWER COURT ERRED IN NOT DECLARING NULL AND VOID AND OF NO LEGAL EFFECT THE SALE BY JUANITO LIMPIADO TO BENJAMIN DIU AND THE DONATION OF THE LATTER IN FAVOR OF THE APPELLEE.

IV. THE LOWER COURT ERRED IN GIVING EFFECT TO THE DOCUMENTS THAT WERE NOT CERTIFIED COPIES OF THEIR ALLEGED ORIGINALS.

V. THE LOWER COURT ERRED IN NOT AWARDING ATTORNEY'S FEES, APPEARANCE FEES AND EXPENSES OF LITIGATION TO THE APPELLANTS.

The Ruling of this Court

The appeal is bereft of merit.

The crucial issue to be resolved in this case is whether or not the trial court is correct in ruling that Elen acquired the disputed 66 sq. m. portion of property by prescription.

In ruling that Elen acquired the subject property by prescription, the trial court ratiocinated in this manner:

“xxx.

When Benjamin Diu acquired the property, by purchase in March 11, 1968 from the court administrator (Exh. “2-J”) he took possession of the land in question and later he donated the parcel of land to defendant Elen Diu on January 6, 1990 (Exh “O”) who likewise took possession of the same to the present. Tacked with the possession of Benjamin Diu, defendant Elen Diu is in possession of the land in question for more 40 years (sic) not to mention the possession for 21 years of the former Leoncio Limpiado. And applying Art. 1134 of the Civil Code, defendant Elen Diu acquired ownership of the land in question by prescription. In 1997, plaintiff entered the land and a case of Forcible Entry was filed by Elen Diu before the MTC of Naval Biliran where the decision was favorable to her but was reversed by the Regional Trial Court. However, the Court of Appeals in C.A. G.R.-SP No. 49714 in its decision reversed the decision of the Regional Trial Court and reinstated the decision of the Municipal Trial Court of Naval, Biliran. In its findings the [C]ourt [A]ppeals held:

“Moreover petitioner Diu (Elen Diu) has shown by hard evidence that she was in possession of the subject 66 sq. m. lot which is the portion of the 274 sq. m. property donated to her by her father in January 6, 1990 before the respondents Limpiados entered the said premises by means of force and intimidation in November 1997, further there is no dispute that the subject portion of land has been established as a road or foot path of the petitioners Diu's predecessors-in-interest from Vecintillo Street Naval, Biliran. Said use of lot proves wrong [the] claim of respondents Limpiados had possessed the same since 1975”(Exh. “G-H”).

That Elen Diu was in prior possession of the land before 1997 having been upheld in that forcible entry case cannot in any manner be disturbed and has bolstered the findings of this court. That the possession of defendant Elen Diu is but a continuation of the possession of her predecessor-in-interest since 22 July 1957, the issue raised by the plaintiff as to whether the defendant has encroached into the land of the plaintiff by 66 sq. m. has no legal basis. Xxx.[22]”

Generally, the findings of fact of the lower courts are entitled to great weight and not disturbed except for cogent reasons. Indeed, they should not be changed on appeal in the absence of a clear showing that the trial court overlooked, disregarded, or misinterpreted some facts of weight and significance, which if considered would have altered the result of the case.[23] We have reexamined the records of this case and We find no compelling reason to depart from the findings of the court a quo.

In their brief, Sps. Limpiado asserted that the RTC committed reversible error in ruling that Elen have acquired the subject property by prescription. They maintained that they were in possession of the subject property including the house thereon from the time they bought it from Trinidad Ebio on August 23, 1978. They even demolished the house situated in the property in 1978 indicating that indeed they were in possession of the property as owners thereto. Further they stressed that it is only in Tax Declaration No. 6688 (Exh. “Q” [1980]) that Elen and her father claimed the 66 square meter portion by increasing the area of their land from 202 sq. m. to 274 sq. m.

We are not convinced.

After a judicious perusal of the records of this case, We find that Sps. Limpiado failed to prove by preponderance of evidence their allegation that they are in possession of the subject 66 square meter portion of lot. Notably, there is no convincing proof presented that would establish that their possession over the property, which they acquired from Trinidad Ebio, also extended to the contested 66 square meter portion subject of this case.

On the contrary, as pointed out by the trial court it is undisputed that when Leoncio Limpiado acquired the property in 1957, he constructed an electric plant on the lot he brought from Cirilo Biron and he used the subject 66 square meter portion he brought from Trinidad Ebio as his pathway in going in and out from his electric plant.[24] When Benjamin acquired the property by purchase on March 11, 1968, he took possession of the subject land and donated it to her daughter Elen on January 6, 1990. Thus, both Benjamin and Elen possessed the subject property for at least more than 30 years excluding the possession of their predecessor Leoncio Limpiado.

Applying Article 1134 and 1135 of the Civil Code it is beyond doubt that Elen acquired the subject property by prescription, thus:

“Art. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years.” (Bold letters Ours)

“Art. 1135. In case the adverse claimant possesses by mistake an area greater, or less, than that expressed in his title, prescription shall be based on the possession.”

Besides, the fact that Elen had prior possession over the contested land was bolstered by the ruling[25] of the

Seventeenth Division of this Court dated July 14, 2000 in CA-G.R. SP. No. 46714 penned by Justice Presbitero Villasco. In that decision this Court categorically confirmed that the subject portion of lot has been established as a road or foot path by the Diu's predecessors-in-interest. Consequently, the fact refutes the appellants' claim that they are in possession of the subject lot since 1978.

Prescinding from the foregoing the totality of evidence presented by both parties, in this case, clearly preponderates in favor of Elen.

Preponderance of evidence simply means “evidence which is of greater weight, or more convincing than that which is offered in opposition to it.”^[26] In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term “greater weight of evidence” or “greater weight of the credible evidence.” Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.^[27]

In view of Our foregoing disquisition that Elen acquired the contested property by virtue of her possession, We no longer find it necessary to delve into the other issues raised by Sps. Limpiado.

WHEREFORE, the Decision dated February 26, 2010, rendered by the Regional Trial Court, Branch 16, Naval, Biliran in Civil Case No. B-1111 is hereby AFFIRMED in toto.

SO ORDERED.

Ingles,^[1] and Lopez, JJ., concur.

[1] Vice Justice Delos Santos who is on wellness leave per Office Order No. 13-14-GTI dated June 17, 2014.

[2] Rollo, pp. 49-65, penned by Presiding Judge Bienvenido M. Montalla.

[3] Records, pp. 1-5.

[4] Records, p. 7.

[5] Records, p. 6.

[6] Records, p. 8.

[7] Complaint, supra note 2 (pp. 1-2).

[8] Deed of Donation, records, p. 9.

[9] Deed of Absolute Sale, records, p. 10.

[10] Complaint, supra note 2 (at p. 3).

[11] Id.

[12] Id.

[13] Id. (3-4).

[14] Records, pp. 23-27.

[15] Culled from the Decision of the RTC, supra note 1 (at p. 51).

[16] Id. (pp. 51-52).

[17] Id., p. 52.

[18] See Answer with Counterclaim, *supra* note 13 (at pp. 24-26).

[19] Culled from the Decision of the RTC, *supra* note 1, (at p.53).

[20] *Supra* note 1.

[21] See Appellant's Brief, Rollo, pp. 25-48 (at pp. 28-30).

[22] Decision, *supra* note 1 (at pp. 62-63).

[23] Villanueva v. Court of Appeals, G.R. No. 107624, January 28, 1997.

[24] Decision, *supra* note 1, (at p. 61).

[25] Records, 456-465.

[26] Montanez vs. Mendoza, G.R. No. 144116, November 22, 2002.

[27] Ching vs. Nicdao, G.R. No. 141181, April 27, 2002.

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