

EMILIO BOMAGAT, PLAINTIFF-APPELLANT, VS. ROSALINDA B. BACANI, EMETERIA B. RAGA, THE HEIRS OF FORTUNATA B. CORDERO: NAMELY, PURIFICACION, IRENE, DOROTHY, AND ROBERT, ALL SURNAMED...

CV No. 92507, September 08, 2010

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Court of Appeals

This appeal assails the Decision[2] of the Regional Trial Court (RTC), National Capital Judicial Region, Br. 66, Makati City, dismissing the complaint in Civil Case No. 00-079 for recovery of hereditary rights and damages.

The Facts:

Dionicia Bomagat, widow of Sinforoso Bomagat, acquired and became the registered owner of a four hundred sixty-eight (468) sq. m parcel of land covered by Transfer Certificate of Title (TCT) No. 399427/T-2270, located at Guadalupe, San Pedro Makati, Rizal (now Guadalupe, Makati City). Sometime in 1966, Dionicia's sons, Emilio and Bernard, went to and eventually became citizens of the United States of America (U.S.A.). Hence, she was left in the care of her daughters, namely, Rosalina, Emeteria, Fortunata, and Eugenia (Defendant-Appellees).

On March 26, 1973, Dionicia executed a Deed of Absolute Sale[3] covering the subject property in favor of the Defendants-Appellees. Pursuant thereto, TCT No. 399427/T-2270 was cancelled and TCT No. 402593[4], issued in the name of the Defendants-Appellees, was registered in the Registry of Deeds of Pasig, Rizal, on March 27, 1973.

In 1992, the Defendants-Appellees partitioned the subject property and, thus, certificates of title covering their respective portions were issued to them.[5]

On May 31, 1976, Dionicia died.

The Controversy:

On January 17, 2000, Emilio filed the complaint below against the Defendants-Appellees alleging that he was deceived by the latter into thinking that they will give to him his share on the subject property. However and despite his annual visits to the Philippines, he was never given any such share and was never informed by his sisters of the existence of the deed of sale. Claiming that the signature of their mother on the deed of sale is spurious, he prays that the deed be nullified and for him to be allowed to recover his share on the subject property, as well as the award to him for damages.[6]

Emilio also impleaded the lessee of a portion of the subject property, Mercury Drug Corporation[7], as defendant.

In their Answer[8], Defendants-Appellees Rosalina and Emeteria deny Emilio's allegations and counter that the latter never communicated with their mother and/or with any of them, from the time he went overseas in 1966 until 1971, when Emilio called up and informed their mother that his daughter intends to visit the Philippines. They aver that it was then when their mother informed Emilio of her intent to sell the subject property to them;

that Emilio consented thereto without any reservation especially upon knowing that their brother, Bernard, already consented to the intended sale; and, that by virtue of such consent, Emilio already relinquished any interest that he may have over the subject property.

The Defendants-Appellees maintain that Emilio changed his mind and decided to lay claim on the property only after learning, sometime in 1991, that the market value thereof has spiralled astronomically. Invoking the principles of estoppel and of laches, they, thus, pray that the complaint be dismissed and, by way of counterclaim, allege that the filing against them by the Plaintiff-Appellant of a baseless suit entitles them to an award for damages.

For its part, Mercury Drug Corporation admits being the lessee of Defendants-Appellees Rosalina and Emeteria over the two hundred forty (240) sq. m. portion registered in the latter's names. However, it denies the rest of Emilio's allegations for lack of knowledge. Asserting lack of cause of action, it prays that it be dropped -as party-defendant and the complaint be dismissed, as far as it is concerned.[9]

The other defendants failed to file any responsive pleading despite due service of summons. Thus, they were declared in default by the RTC on May 11, 2001.[10] Thereafter, the pre-trial conference was conducted but the parties failed to amicably settle. Hence, trial ensued.

On September 15, 2008, the RTC rendered the assailed disposition, the fallo of which reads:

WHEREFORE, conformably with the foregoing, judgment is hereby rendered dismissing the plaintiffs complaint for utter lack of merit. All other claims are likewise dismissed for dearth of evidence.

SO ORDERED.[11]

Disagreeing, Emilio, through his daughter, sought the instant recourse.

The Error Assigned:[12]

In assailing the RTC's disposition, Emilio theorizes that THE REGIONAL TRIAL COURT OF MAKATI CITY COMMITTED REVERSIBLE ERROR IN DISREGARDING THE STIPULATIONS IN THE PRE-TRIAL ORDER OF THE REGIONAL TRIAL COURT OF MAKATI DATED OCTOBER 5, 2001.

This Court's Ruling:

Evidently, the present appeal is anchored on the argument that the RTC erred in dismissing Emilio's complaint for recovery of inheritance considering that the Pre-trial Order[13] categorically states that there is no dispute that he is an heir of Dionicia Domagat; that the subject property was left intestate by the latter; and, that he was not given his one-sixth (1/6) share thereof.

The argument fails to convince.

We digress. Although a case will be reviewed and decided on the particular theory upon which it is tried, appellate courts are not prohibited from resolving the matter in controversy from a different point of view or from rendering judgment on the basis of the evidence before it.[14] Thus, parties to a case cannot limit the authority of the court to look into provisions of law and/or issues other than those invoked by them. To borrow the Supreme Court's pronouncement in *Bon-Mar Realty and Sport Corp, Souses De Guzman* [15].

While this Court gives considerable weight to the parties' formulation of the issues, the resolution of the controversy may warrant an approach that goes beyond the narrow confines of the issues raised. Justice does not depend on the depth of the parties' arguments; it is based on the established facts and the applicable law. (Emphasis supplied)

Using the foregoing as a guideline, this Court can and so RULES that, while it is true that the parties stipulated during the pre-trial that the property was left intestate by Dionicia, Emilio cannot lay claim over the subject property under the law on succession because the property is not, and should not have been regarded as, a part of Dionicia's estate.

We explain. Records show that Emilio adduced no proof of his claim that Dionicia's signature in the deed[16] of sale in favor of Defendants-Appellees is a forgery; and, that it is not denied that such deed of sale is a notarized document. Thus, the legal presumption of validity of the Defendants-Appellees' deed of sale cannot be said to have been overcome by preponderant evidence by Emilio who, having alleged the contrary, has the burden of proving the same. In other words, Emilio cannot be considered to have successfully overcome the legal presumption that such deed of sale is valid.

Taking off from the foregoing, note must be taken that Dionicia executed the deed of sale in Defendants-Appellees' favor on March 26, 1973 and she died more than three (3) years thereafter, specifically, on May 31, 1976. Evidently, therefore, Dionicia was no longer the owner of the property at the time of her death. This fact, coupled with the fact that succession comes into play only from the moment of death of the decedent,[17] leads to no other conclusion but that the subject property cannot be considered as a part of the intestate estate of Dionicia.

Moreover, there is no showing that the deed of sale in the Defendants-Appellees' favor involve a gratuitous transfer of future inheritance. Hence, the property conveyed thereby is not collationable because collation, as provided under Article 1061 of the Civil Code, only contemplates properties conveyed inter vivos by a decedent to an heir by way of donation or other gratuitous title.[18] Ergo, Emilio's claim that he has a right to the subject property as Dionicia's heir has no leg to stand on.

In fact, even if We were to assume ex gratia argumenti that the subject property is a part of the intestate estate of Dionicia, still, Emilio cannot recover his share thereto.

Using as a premise the settled rule that the findings of facts and the assessment of the credibility of witnesses is a matter best left to the trial court because of the vantage position of the trial judge in observing the demeanour of the witness, this Court accords respect on the RTC's finding that Emilio supported Dionicia's plan to sell the property to the Defendants-Appellees. In so doing, estoppel and laches bar him from disavowing such consent. As correctly found by the RTC:

It is worth nothing that [the] plaintiff, after allowing the transfer of the subject lot to his four (4) sisters, herein defendants, upon his belief that the property is not worth his time and attention, kept silent for long since [the] year 1973. The Court observed that this conduct of plaintiff Emilio misled his siblings into believing that he has no more interest in the property. Thus, plaintiff is under estoppel in pais or by acquiescence.

The Court notes that the claim of the plaintiff was merely an afterthought, after having learned of the present value of the subject lot. This was admitted by plaintiff himself during his cross-examination (TSN, Feb. 19, 2003, pp. 45-56) * * *

* * * laches could also be ascribed against the plaintiff for his failure or neglect for an unreasonable length of time to do that which, by the exercise of due diligence could or should have been done earlier. * * * The silence and inaction of the plaintiff since the sale of the property in 1973 is tantamount to his assent to the consummation of the sale, for the law only serves those who are vigilant[,] and not those who sleep[,] when the law requires them to act. Further, having not done anything for more than [twenty] 20 years, when he ought to know of the sale of the subject property, plaintiff cannot question the integrity and validity of the sale. * *

*[19] (Emphasis added)

All told, We find no reason to depart from the RTC's findings and its dismissal of Emilio's complaint, supported as they are by law and jurisprudence.

WHEREFORE, the appeal is DENIED. The assailed disposition is affirmed. Costs against the Plaintiff-Appellant.

SO ORDERED.

Tolentino and Ay son, JJ., concur.

Appeal denied. Judgment affirmed.

[1] He died during the pendency of the case below. Although no substitution was actually made or ordered, the case was actively pursued below and in the present appeal by his daughter, Lorna; See p. 2, Manifestation and Appellant's Brief at 8; Record, p. 238, and Rollo, p. 44, respectively.

[2] Dated Sept. 15, 2008; Rollo, pp. 19-21.

[3] Exh. "1"; Rollo, p. 224.

[4] Exh. "A"; Record, pp. 181-182.

[5] See annotation, dorsal portion of TCT No. 177042, Exh. "A"; See also Exhs. "F" and "G"; Record, pp. 183, 185, and 187, respectively.

[6] Record, pp. 1-12.

[7] A corporation engaged in the retail of pharmaceutical products, with principal office at No. 7 Mercury Ave., cor. E. Rodriguez, Bagumbayan, Quezon City; Complaint, p. 2; Record, p. 2.

[8] With Counterclaim; Record, pp. 46-57.

[9] See Answer; Record, pp. 44-47.

[10] See Order; Record, p. 108.

[11] See assailed Decision, p. 3; Rollo, p. 21

[12] Brief, p. 4; Rollo, p. 46.

[13] Record, pp. 117-119.

[14] See Toledo vs. People, G.R. No. 158057, Sept. 24, 2004, and Vlasen Enterprises Corp vs. CA, et al., G.R. Nos. 121662-64, July 6, 1999.

[15] G.R. Nos. 182136-37, Aug. 29, 2008.

[16] Exh. "1"; Rollo, p. 224.

[17] Art. 777 of the New Civil Code.

[18] See Sanchez, et al., vs. CA, et al., G.R. No. 108947, Sept. 29, 1997

[19] See assailed disposition, pp. 2-3, pp. 20-21.

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