

ULDARICO PABILONIA, ROBERTO PABILONIA, WINEFREDO PABILONIA, OTELIA P. GARIN, CARMENCITA PABILONIA, FLAVIANA P. BACALANDO AND GINA P. BACALANDO, PLAINTIFFS-APPELLEES, VS. ANDRES ...

Ponente: LAGURA-YAP, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2b25233df7c7/>

LAGURA-YAP, J.:

This is an appeal from the Decision[1] dated August 17, 2004 of the Regional Trial Court, Branch 17 of Palompon, Leyte, the dispositive portion of which reads:

“WHEREFORE, in view of the above considerations, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

- a. Declaring the Deed of Absolute Sale dated December 17, 1956 (Exhs. “D” and “1”) and the Deed of Absolute Sale dated March 28, 1978 (Exh. “E”) as null and void for being forged or simulated or spurious;
- b. Declaring the plaintiffs as the lawful owners of the land subject matter of this case described in par. 4 of the complaint (Exh. “A-1”) irrespective of in whose name it is now declared for taxation purposes;
- c. Ordering the additional defendants, the children and heirs of Anastacio Delima, or whoever are possessing the said land for them, to deliver forthwith the possession of the same to the plaintiffs;
- d. Ordering the additional defendants, the children and heirs of Anastacio Delima, to render an accounting of the produce of the said land beginning May 22, 1992 until the land is delivered to the plaintiffs, within thirty (30) days from the finality of this Decision; and
- e. Ordering the additional defendants, the children and heirs of Anastacio Delima, to jointly and severally pay to the plaintiffs the value of the produce of the land that should have been enjoyed by the plaintiffs from May 22, 1992 until the said land is delivered to the plaintiffs.

No pronouncement as to costs.

SO ORDERED.”

This case involves a parcel of land adjudicated to Escolastica “Tecla” Delima-Pabilonia in the Extra Judicial Partition of the Property of the Late Victor Delima & Maximiana Arante Spouses with Assignment[2] dated January 19, 1978. The land, which is located at Sitio Palanog, Sta. Cruz, Tabango, had an area of 18.8455 hectares and was divided as follows: (A) Tecla Delima with an area of 4.8455 hectares, (B) Leona Delima with an area of seven (7) hectares, and (C) Emilia Delima with an area of seven (7) hectares. The subject matter of this case is Tecla Delima-Pabilonia's share containing an area of 4.8455 hectares bounded on the north by Leona Delima, the east by Leona Delima, south by Emilia Delima and the west by Macario Dellera and Zoila Delantar.

Plaintiffs-appellees Uldarico Pabilonia, Roberto Pabilonia, Winefredo Pabilonia, Otelia P. Garin, Carmencita Pabilonia, Flaviana P. Bacalando and Gina P. Bacalando filed a Complaint[3] for Specific Performance, Recovery

of Real Property, Accounting and Damages against defendants-appellants Uldarico Medalla, Edita M. Barondino, Floriano Medalla and Lucrecia M. Asuero (“original defendants”). However, during pre-trial, the plaintiffs-appellees learned that there are other persons who were in actual possession of the subject lot. Hence, the plaintiffs-appellees filed an Amended Complaint[4] impleading the other defendants-appellants who are the children and heirs of Anastacio Delima, namely, Nelia D. de Guzman, Marcelo Delima, Victor Delima, Marcelina D. Baronda, Tranquilina D. Perez, Erlinda D. Abian, and Alfredo Delima (“additional defendants”).

Plaintiffs-appellees are the children and heirs of Tecla Delima-Pabilonia except Gina P. Bacalando who is Tecla's granddaughter and the sole issue of Tecla's deceased daughter Daylinda D. Pabilonia. The plaintiffs-appellees alleged that since the execution of the extra judicial partition, Tecla Delima-Pabilonia, who was residing in Cauab, Almeria, Biliran, failed to take possession of her share, even until her death on November 24, 1994.

In April 2002, they engaged the services of their lawyer to make a formal demand[5] on the original defendants to turn over the possession of the land to the former. Plaintiffs-appellees exerted earnest efforts to avoid going to court because the original defendants are their first degree cousins. However, plaintiffs-appellees claimed that the original defendants violated their partition agreement by continuing to have possession and enjoyment of Tecla's land and appropriating for themselves the produce of the land. Plaintiffs-appellees also asked the original defendants to furnish them a copy of the deed of conveyance, but the original defendants were not able to do so. Hence, the plaintiffs-appellees filed a complaint against the original defendants. The complaint was docketed as Civil Case No. PN-0262 in the Regional Trial Court, Branch 17 of Palompon, Leyte.

It was only after the original defendants filed their Answer that the plaintiffs-appellees were given a copy of the Deed of Sale dated December 17, 1956 and the Deed of Sale dated March 28, 1978. They have no knowledge and information about the truth of the documents. They contend that the existence of the documents is now dubious and could be a result of manipulations or afterthought of the original defendants to defeat their claim.

Otelia Pabilonia Garin, one of the plaintiffs-appellees and a daughter of Tecla Delima-Pabilonia, testified that her mother owned a parcel of land located at Barangay Palanog, Tabango, Leyte which was Tecla's share of the estate of her parents. Tecla was not able to take possession of the land as she was then living far from it. Tecla left the care of her land to her siblings. Tecla did not inform her children of any conveyances of her share. During her lifetime, Tecla encourage them to recover the land.[6]

After Tecla's death, Otelia, together with her husband and sister Flaviana, went to Sitio Palaypay, Barangay Palanog, Tabango, Leyte in 1999. They went to see their aunt Leona Delima-Medalla to tell the latter that they are claiming their mother's land. However, they were told that the land does not belong to Tecla anymore as Tecla allegedly sold her share already. When plaintiffs-appellees demanded to see a document evidencing the sale, the original defendants were unable to present any document to them at that time.[7]

Otelia asserts that the signature appearing in the Deed of Sale dated December 15, 1956 is not her mother's signature because Tecla did not know how to read and write. Her mother could not have signed the said document.[8] She also said that her mother never told them that she had sold her share.

On the other hand, the original defendants admit that in the year 2000, three of Tecla's children came to Palanog to inquire about Tecla's property. The original defendants claim that Tecla Delima-Pabilonia had no more property to take possession of, as she had already sold her property Anastacio Delima and Andres Medalla. The original defendants also claim that they were not in possession of the property claimed by Tecla Delima-Pabilonia's heirs.

Attached to the Answer[9] were two Deeds of Sale. The Deed of Sale dated December 17, 1956[10] was signed by

Anastacio Delima and Escolastica Delima. The Deed of Sale dated March 28, 1978[11] was thumb marked by Tecla Delima and Anastacio Delima's signature does not appear therein.

Editha Barandino, one of the original defendants and a daughter of Andres and Leona Madalla, testified that Tecla's share of the estate, about 4.5 hectares was sold to Anastacio Delima.[12] She also claimed that she was present when the sale took place in 1978.[13] The land was already in the possession of one of the additional defendants, Victor Delima. She said that there was never a time when the original defendants were in possession of the disputed property.[14]

In their Answer[15], the additional defendants claim that Tecla Delima-Pabilonia failed to take possession of her share because Tecla had already sold all her property. The first sale was allegedly made to Anastacio Delima covering an area of 4.8455 hectares as evidenced by a Deed of Absolute Sale dated December 17, 1956. Tecla Delima-Pabilonia also sold 3.8455 hectares to Anastacio Delima on March 28, 1978.[16]

Nelia D. de Guzman, one of the additional defendants and a daughter of Anastacio Delima, testified that the property of Tecla Delima-Pabilonia was bought by her father in December 17, 1956. The land with an area of 4.5 hectares was sold for two hundred pesos (P200.00).[17] Her father had the lot declared in his name for tax purposes. Her father also built a house on the land and planted coconuts, corn, rice, vegetable and fruits. They were even able to mortgage the land in 1979; and had it redeemed after. After her father died in 1981, her brother Victor and sister Marcelina took possession of the land.[18]

Nelia D. de Guzman further testified that one hectare was also sold to Andres Medalla. Other than the Deed of Sale dated December 17, 1956, there was no other document executed by her father. According to Nelia D. de Guzman the second Deed of Sale dated 1978 was falsified.[19]

On August 17, 2004, the Regional Trial Court of Palompon, Leyte rendered a Decision[20] in favor of the plaintiffs-appellees and against the defendants-appellants. The court a quo found that although the additional defendants were the ones currently in possession of the subject land, Tecla Delima-Pabilonia's heirs remain the owners of Tecla's share of the estate of the late Victor Delima and Maximiana Arante and are therefore entitled to its possession.

Aggrieved, defendants appealed to this Court with the following assignment of errors:

I

THE COURT A QUO ERRED IN DECLARING THAT THE DEEDS OF ABSOLUTE SALE DATED DECEMBER 17, 1956 AND MARCH 28, 1978 IN FAVOR OF THE LATE ANASTACIO DELIMA IS NULL AND VOID.

II

THE COURT A QUO ERRED IN DECLARING THAT THE PLAINTIFFS ARE THE LAWFUL OWNERS OF THE DISPUTED PROPERTY AND/OR ENTITLED TO ITS POSSESSION.

III

THE COURT A QUO ERRED IN ORDERING THE DEFENDANT – HEIRS OF THE LATE ANASTACIO DELIMA – TO RENDER ACCOUNTING AND TO JOINTLY AND SEVERALLY PAY THE PLAINTIFFS THE VALUE OF THE PRODUCE OF THE LAND FROM MAY 22, 1992.[21]

After a thorough consideration of this case, We hold that the instant appeal should be dismissed.

Defendants-appellants allege that the deeds of absolute sale were notarized documents and its notarization was

never denied, nor disputed by the plaintiffs. They aver that the witness presented by plaintiffs-appellees was not a party, nor a witness during the execution of the deeds of sale. Defendants-appellants argue that forgery cannot be presumed; it must be proven by clear and convincing evidence.

We note that the Deed of Absolute Sale dated December 17, 1956 and the Deed of Absolute Sale dated March 28, 1978 are public documents as these were notarized by a certain Justice of the Peace Paterno S. Castor and a certain Atty. Conrado D. Dagandan, respectively. As public documents, both Deeds of Absolute Sale had in their favor the presumption of regularity, and to contradict it, there must be evidence that is clear, convincing and more than merely preponderant; otherwise the documents should be upheld.[22]

In this case, there is a clear and convincing evidence that overcame the presumption of due execution and authenticity of a notarized document.

It is worth noting that the documents presented in the court a quo appear to be mere photocopies. There is no showing that the originals of the documents were ever presented in court. Nevertheless, We have looked into both Deeds of Sale and found them to be spurious.

The Deed of Absolute Sale dated December 17, 1956 covers an area of 4.5 hectares, with one (1) hectare sold to Andres Medalla. On the other hand, the area covered by the Deed of Sale dated March 28, 1978 is 3.8455 hectares. However, it must be remembered that under the Extra Judicial Partition of the Property, Tecla Delima-Pabilonia's share is only 4.8455 hectares. If both Deeds of Absolute Sale would be upheld, then the share of Tecla Delima-Pabilonia would have been 8.3455 hectares, which is way beyond the actual 4.8455 hectares of Tecla's share.

It is worth stressing that the plaintiffs-appellees alleged that their mother Tecla Delima-Pabilonia cannot read and write, but she was able to affix her signature on the Deed of Absolute Sale dated December 17, 1956. What is more peculiar is that in the last paragraph[23] of the Deed of Absolute Sale dated March 28, 1978, it is stated there that Tecla Delima-Pabilonia cannot read and write and thus only placed her thumbmark on the document. It is peculiar because in 1956, Tecla Delima-Pabilonia was able to affix her signature; but in 1978, she admitted to not knowing how to read and write.

Moreover, We agree with the findings of the court a quo, in that:

“What now appears to the Court is that the first Deed of Absolute Sale dated December 17, 1956 was forged or spurious as indicated by the ability of Tecla Delima to affix her signature thereon despite her being illiterate. But when Anastacio Delima found out that the defect in the document, he tried to have it corrected by the execution of the second Deed of Absolute Sale dated March 28, 1978. Unfortunately, this too was fatally defective in that it was also forged or spurious as revealed by Edita M. Barandino, a daughter of Andres Medalla, who testified that when it was executed on that date its alleged witnesses who purportedly affixed their signatures thereon were both already dead.”[24]

As a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.[25] Clearly, the signature appearing in the Deed of Absolute Sale dated December 17, 1956 was not made by Tecla Delima-Pabilonia, as she was an illiterate. Hence, the first deed of sale is a spurious document. Neither can we uphold the validity of the second deed of absolute sale, as it was not offered as an exhibit for the additional defendants. In addition, Nelia D. de Guzman, the daughter of Anastacio Delima, testified that the second document, the Deed of Absolute Sale dated March 28, 1978 was falsified, to wit:

“Atty Clemencio Sabitsana:

Now, are you aware of any Absolute Deed of Sale executed by Tecla Delima in favor of your father?

Witness Nelia D. de Guzman:

Yes Sir.

Q: Aside from that one in 1956?

A: No, only that one in 1956.

Q: In your Answer Annex "B" which is the Deed of Sale allegedly from Tecla Delima in favor of Anastacio Delima dated March 28, 1978, have you seen that before? Just answer it, are you aware of that?

A: No.

Q: When did your father die?

A: In 1981

Q: Who produce the Deed of Absolute Sale which was marked Annex "C" to your Answer?

A: When they sold the other portion of the land to Emilia Delima, they made that Deed of Absolute Sale but I do not know about it.

Q: You mean your father is not concerned of the second Absolute Sale?

A: No, Sir, because even the signature of my father is not shown there.

Q: So, that you are now relying only of this Deed of Absolute Sale in 1956?

A: Yes Sir.

Q: Is it not that the second Deed of Absolute Sale was executed because the first one was a falsified document?

x x x

A: No, Sir, the second document is the one which is falsified because my father did not affix his signature in that document.[26]

From all the foregoing, the prima facie evidence of the due execution and authenticity of both Deeds of Absolute Sale has been overthrown. Hence, the court a quo did not err in declaring both Deeds of Absolute Sale as null and

void.

Defendants-appellants postulate the assumption that if the notarized Deeds of Sale do not exist, plaintiffs-appellees still have no cause of action against them because they have been in open, public, peaceful and had uninterrupted possession of the land for forty-five years already.

Prescription is another mode of acquiring ownership and other real rights over immovable property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse.[27] Acquisitive prescription is either ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for ten years. In extraordinary prescription ownership and other real rights over immovable property are acquired through uninterrupted, adverse possession thereof for thirty years without need of title or of good faith.[28]

The good faith of the possessor consists in the reasonable belief that the person from whom he received the thing was the owner thereof, and could transmit his ownership.[29] For 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.[30]

In this case, there is no proof of the additional defendant's "good faith." Hence, the additional defendants-appellants must show that they have met the requirements for extraordinary acquisitive prescription to set in. However, the only evidence that were offered by the defendants-appellants are the spurious Deed of Sale dated December 17, 1956, a Declaration of Property[31] in 1974, a tax clearance[32] dated December 16, 1976, and the self-serving testimony of Norma D. de Guzman stating that they were in possession of the land since 1956. Be it remembered that the partition of the land only took effect in 1978. In 1956, the land was still co-owned by Tecla Delima-Pabilonia, Leona Delima-Medalla and Emilia Delima. As it was not yet partitioned, the possession of Tecla Delima-Pabilonia's sisters of the land would accrue to the unpartitioned co-ownership. Hence, it cannot be said that the additional defendants adversely possessed and occupied the disputed land as owner thereof while the co-ownership still existed and that acquisitive prescription would run against a particular co-owner. Moreover, tax declarations and receipts are not conclusive evidence of ownership. At most, they constitute mere prima facie proof of ownership or possession of the property for which taxes have been paid. In the absence of actual public and adverse possession, the declaration of the land for tax purposes does not prove ownership.[33] We therefore conclude that the evidence presented by the additional defendants is not sufficient to demonstrate that they have met the requirements for acquisitive prescription.

Defendants-appellants' contention is that the court a quo erred in ordering them to render accounting and to jointly and severally pay the plaintiffs-appellees the value of the produce of the land from May 22, 1992. The defendants-appellants' basis for this is that they are already the owners of the disputed land. However, as already discussed above, the rightful ownership and possession of the subject land is with the plaintiffs-appellees. Again, We agree with the court a quo that:

"Having possessed and enjoyed the share of Tecla Delima-Pabilonia the additional defendants, children and heirs of Anastacio Delima, are under obligation to render an accounting of the produce of the land that they have appropriated to themselves which should have been enjoyed by the plaintiffs as owners thereof. However, the obligation to account should cover only the period ten (10) years to be counted backward from the filing of the complaint in this case on May 22, 2002, or beginning May 22, 1992, and until the land subject matter is turned over to the plaintiffs." [34]

It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the evidence presented before it. It is not a function of this Court to analyze and weigh evidence by the parties all over again.[35] The circumstances prevailing in the instant case do not justify a deviation from the aforestated doctrine. Hence, the findings of fact of the court a quo must be accorded respect.

WHEREFORE, the instant appeal is DISMISSED. The Decision dated August 17, 2004 is AFFIRMED in toto.

SO ORDERED.

Lagura-Yap and, Quijano-Padilla*, JJ.; concur.

*Acting Junior member per Office Order No. 472-13-ABR dated December 12, 2013.

[1] Record, pp. 124-130 (Penned by Judge Eric F. Menchavez).

[2] Record, pp. 5-6.

[3] Record, pp. 1-3.

[4] Record, pp. 51-55.

[5] Record, p. 7.

[6] TSN, April 27, 2004, p. 17-19.

[7] TSN, April 27, 2004, pp. 19-22.

[8] TSN, March 16, 2004, pp. 16, 33-34, 54-55.

[9] Record, pp. 16-19.

[10] Record, pp. 21.

[11] Record, pp. 22.

[12] TSN, April 27, 2004, p. 6.

[13] TSN, April 27, 2004, pp. 10-11, 14.

[14] TSN, April 27, 2004, p. 7.

[15] Record, pp. 90-93.

[16] Record, p. 91 (Paragraph 4 of the Answer of the Additional Defendants).

[17] TSN, April 27, 2004, p. 14.

[18] TSN, April 27, 2004, pp. 8-11.

[19] TSN, June 16, 2004, pp. 21-22.

[20] Record, pp. 124-130.

[21] Rollo, pp. 69-70.

[22] Ladignon vs. CA, 390 Phil 1161.

[23] “IN WITNESS HEREOF, I hereunto set my signature in this instrument by placing my right hand Thumb Mark because I can't read and write after translating to me the contents of this instrument in a dialect called Leyte, Samar Dialect, this 28th day of March, 1978, A.D. At Leyte, Leyte, Philippines, and also in the presence of our two named instrumental witnesses.”

[24] Rollo, pp 128-129.

[25] Heirs of Felix Bucton vs. Spouses Go, G.R. No. 188395, November 20, 2013.

[26] TSN, June 16, 2004, pp. 21-22.

[27] Calicdan vs. Cendaña, G.R. No. 155080, February 5, 2004.

[28] Gesmundo vs. Court of Appeals, 378 Phil. 1099.

[29] Article 1127, New Civil Code.

[30] Article 1129, New Civil Code.

[31] Record, p. 110 (illegible).

[32] Record, p. 109.

[33] Cequeña vs. Bolante, G.R. No. 137944, April 6, 2000.

[34] Rollo, p. 129.

[35] Tayco vs. Heirs of Tayco-Flores, et. al., G.R. No. 168692, December 13, 2010.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.