# ABRA VALLEY COLLEGE, INC., REPRESENTED BY ITS PRESIDENT AND CHAIRMAN OF THE BOARD, FRANCIS BORGOÑA, PLAINTIFF-APPELLEE, VS. GRACE B. INSIGNE, OSBORNE BORGOÑA, ROMULO BORGOÑA, DI...

Ponente: PAREDES, J.

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**PAREDES, J.:**

## THE CASE

THIS IS ON THE APPEAL filed by defendants-appellants Grace B. Insigne, Osborne Borgoña, Romulo Borgoña, Diosdado Borgoña, Imelda B. Rivera, Aristotle Borgoña, Melody Borgoña, Joseph V. Borgoña, and the Heirs of the late Octavius Borgoña (collectively referred to as defendants-appellants) from the Decision[1] dated July 16, 2009 of the Regional Trial Court (RTC), Branch 2, Bangued, Abra, in Civil Case No. 2101, for Ownership and Possession, Rescission of Quitclaim and Waiver, and Damages, that ruled in favor of plaintiff-appelee Abra Valley Colleges, Inc. (Abra Valley Colleges), represented by its President and Chairman of the Board, Francis Borgoña (Francis).

## THE ANTECEDENTS

On July 23, 2003, Abra Valley Colleges, through Francis, filed a Complaint for Ownership and Possession, Rescission of Quitclaim and Waiver, and Damages against defendants-appellants. Abra Valley College claims that it is the owner of a parcel of residential lot with an area of about 440.80 square meters known as Assessor's Lot No. 0030 and covered by Tax Declaration Nos. 1539 and 1517 located at Zone 4, Bangued Abra (subject lot). Abra Valley Colleges acquired the subject lot from one Fernando Lizardo as shown by the Tax Declaration No. 18365. Thereafter, the subject lot was declared in the name of Pedro Borgonia/AVC (Abra Valley Colleges) as reflected in Tax Declaration Nos. 41785 and 4609. Pedro Borgonia was the administrator of the subject lot in his capacity as then President and Chairman of the Board of Abra Valley Colleges.

A building, known as Abra Valley Colleges Dormitory, was erected on the subject lot which was used as a classroom for the elementary school and dormitory of the students and some faculty members. Sometime later, Abra Valley Colleges learned that Tax Declaration No. 4609 was cancelled by Tax Declaration No. 37459 in the name of Pedro Borgoña. Thereafter, the lot became the subject of an Adjudication of Real Estate with Quitclaim and Waiver (the Agreement, for brevity) dated February 22, 1993 executed by Pedro Borgoña and defendants-appellants. Francis contends that the Agreement was never authorized by Abra Valley Colleges. From then on, defendant-appellant Grace Borgoña Insigne had been collecting rentals from the occupants and not remitting the rentals to Abra Valley Colleges.

Abra Valley Colleges, upon learning of the same, demanded from defendants-appellants the return of the subject lot but, such demand was left unheeded; thus, the filing of the Complaint.

On August 6, 2002, appellants filed a Motion to Dismiss[2] on the ground that Abra Valley Colleges is not the real party in interest and Francis has no authority to represent Abra Valley Colleges. On March 7, 2003, the RTC issued an Order denying[3] the Motion to Dismiss ruling that the ground/s relied upon by defendants-appellants are evidentiary in nature and would require a presentation of evidence.

On April 8, 2003, defendants-appellants filed their Answer with Counterclaim[4]. They assert that Abra Valley Colleges has no cause of action against them because it is not the owner of the subject lot.

After the submission of the parties' respective pre-trial briefs[5], the RTC issued an Order[6] dated February 18, 2004 terminating the pre-trial and setting the case for initial reception of evidence.

Trial ensued.

Abra Valley Colleges, plaintiff-appellee, presented the testimonies of Teresita Villamor, Jocelyn Bernal - Corporate Secretary of Abra Valley Colleges, Ines Valera - employee of Abra Valley Colleges since 1963, and Francis. Teresita Villamor, Records Officer of the Office of the Provincial Assessor, identified the Tax Declarations-exhibits of plaintiff-appellee. She added that they do not have the document which would show the basis for the cancellation of Tax Declaration No. 37459 by Tax Declaration No. 44329. Francis testified that Pedro Borgoña purchased the property from the funds of Abra Valley Colleges and that the Board of Abra Valley Colleges did not authorize Pedro Borgoña to transfer the subject lot to defendants-appellants.

On the other hand, defendants-appellants presented Grace B. Insigne and Juanito A. Peig, Jr., as witnesses. Grace testified that Francis is the Borgoña's half-brother. She is aware of the subject-lot covered by Tax Declaration No. 18365 because it has been the subject of the Extra-Judicial Settlement with Waiver and Quitclaim executed by Pedro Borgoña and defendants-appellants. The subject lot is also the subject of a Deed of Partition. Grace added that the subject lot was bought by her father, Pedro Borgoña, from Fernando Lizardo as shown by a Deed of Sale (Exhibit “4”) dated June 14, 1966.

Juanito Peig, Jr., the OIC Municipal Assessor, testified that they do not have on record Tax Declaration Nos. 18365 and 41785. They only have a copy of Tax Declaration No. 4609.

On May 25, 2006, Abra Valley Colleges filed its Formal Offer of Evidence[7] to which defendants-appellants filed their comment and opposition[8]. Defendants-appellants filed their Formal Offer of Evidence[9] on January 15, 2009.

On July 16, 2009, the RTC rendered the assailed decision, and ruled, that:

> WHEREFORE, premises considered, judgment is hereby rendered in favour of the plaintiff (appellee) thereby declaring and ordering the following:

- The Abra Valley Colleges, represented by Francis Borgoña, as the true and legal owner of the real property described in par. 4 page 2 of the complaint;

- That Adjudication of Real Estate with Waiver and Quitclaim is declared null and void considering that Pedro Borgoña is not clothed with authority to transfer ownership of the property in litigation;

- For the defendants (appellants) to peacefully vacate the premises and surrender possession of the property to Abra Valley Colleges, Inc.[;]


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- Defendants-appellants to pay, jointly and severally to plaintiff-appellee the amount of Ninety Thousand Pesos (P90,000.00) as attorney's fees and litigation expenses;

- For actual damages, considering that plaintiff- appellee did not submit any document in relation to payments (sic) of rentals of individuals who allegedly pay rents to defendants-appellants, the court cannot award said damages.

SO ORDERED.

On July 29, 2009, Abra Valley Colleges moved for the issuance of writ of partial execution pending appeal[10] which defendants-appellants opposed.[11] On August 7, 2009, defendants-appellants filed this appeal[12].

On March 23, 2010, the RTC issued an Order[13] granting the writ of partial execution. Defendants-appellants moved for reconsideration[14] of the Order granting the writ of partial execution. The RTC denied[15] defendants-appellants' motion. Defendants-appellants filed a petition for certiorari[16] before Us. On May 12, 2011, We issued a Decision[17] setting aside the assailed Orders of the RTC dated March 23, 2010 and August 5, 2010.

In this appeal, defendants-appellants assign the following errors:

The RTC seriously erred:

A. In ruling that appellee corporation is the true and legal owner of the real property in question considering that:

1) appellee corporation failed to prove by its own evidence that it is the true owner of the subject property; and

2) the Deed of Absolute Sale (Exhibit “4”) between Fernando Lizardo and Pedro Borgoña shows that the subject property was bought by Pedro Borgoña alone and not with or for appellee corporation;

B. In not dismissing this case because of the failure of the Board of Directors of appellee corporation to authorize Francis Borgoña, its alleged representative, to file this case and to sign the Verification and Certification Against Forum Shopping;

C. In awarding attorney's fees and litigation expenses to the appellee corporation, despite the fact that the appellee corporation failed to prove its claim that it is the true owner of the real property in question.

## THE ISSUE

The issue in this case is whether or not the RTC erred in granting plaintiff-appellee's complaint for Ownership and Possession, Rescission of Quitclaim and Waiver, and Damages against defendants-appellants.

## THE COURT'S RULING

We GRANT the appeal.

In issues of ownership of real property, the general rule is that “a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It bears to emphasize that the titleholder is entitled to all the attributes of ownership of the property, including possession.”[18]

In the case at bar, the parties both failed to present title to the property and instead presented copies of tax

declarations. Defendants-appellants, in denying the claim of plaintiff-appellee, presented a Quitclaim and Release, and a Deed of Partition. In this regard, We are governed by the settled rule that tax declarations and tax receipts alone are not conclusive evidence of ownership. They are merely indicia of a claim of ownership, that could be a basis for ownership through prescription if coupled with proof of actual possession of the property[19]. The reason for which is that no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's bona fide claim of acquisition of ownership.[20]

The question now is which among the tax declarations presented by the parties should be given weight. The tax declarations, placed side by side for easy reference, are as follows:

Plaintiff-Appellee

Defendants-Appellants

1) Tax Declaration No. 18365 in the name of Lizardo Fernando (no date) 1) Tax Declaration No. 37459, Pedro Borgoña widower (revised to reflect the true owner of property as per Tax Declaration No. 4609 PD 76 per certification of the Bureau of Lands in 1987, cancels 1517 PD 1621,

2) Tax Declaration No. 41785 in the name of Borgonia, Pedro/AVC INC which cancelled Tax Dec. No. 18365 (1969) 2) Tax Declaration 46031 cancels Tax Declaration 37459,

3)Tax Declaration No. 4609 AVC, Borgonia Pedro which cancelled Tax Declaration. 41785 in 1974; 3) Tax Declaration No. 44329 cancels Tax Declaration No. 583 RA No. 7160 Tax Declaration No. 36444 revised to indicate actual owner of property based on Tax Declaration No. 44329,

4) Tax Declaration. No. 37459 Pedro Borgoña, widower which cancelled Tax Declaration no. 1517 P.D. 1621 in 1985; 4) Tax Declaration No.4609 in the name of Pedro Borgona widower which cancels Tax Declaration No. 41785 (1974).

5) Tax Declaration No. 1517 Abra Valley College which cancelled Tax Declaration. 1539 P.D. 464 (1985);

6) Tax Declaration No. 44329 Osbourne Borgoña, et al cancelled Tax Declaration No. 583 RA No. 7160 (1998).

The RTC, finding in favor of plaintiff-appellee, held as follows:

> From the records, the said lot came from the Lizardo's (sic) and was purchased by Pedro Borgoña and registered under the name of Pedro Borgoña/AVC, Inc and this is evidenced by the cancellation of the Tax Declaration under the name of Lizardo (TD 18365) to a new Tax Declaration No. 41785 in the name of Borgoña, Pedro/AVC, Inc. which was in turn was (sic) cancelled by TD No. 4609 and so on until Tax Declaration Nos. 46031 and 44329 now in the names of the defendants-appellants.
>
> Perusing over the records of the case, this Court does not find any title to the property in the possession of either party. However, as pointed earlier, by analogy, plaintiff-appellee has the earliest tax declaration over the property.

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> In order to discredit this position or claim of plaintiff-appellee, the defendants-appellants bewail the fact that the early tax declarations of plaintiff-appellee seem to have intercalations, hence should not be appreciated. This self-serving objection has no merit since the same was never substantiated.[21]

We invoke by analogy the general principle in criminal law regarding the assessment by the trial court of the credibility of witnesses, to wit:

> On the matter of the credibility of witnesses, recently in People v. Padigos, we reiterated a long held principle that the Court gives great weight to the trial court's assessment. We held that "the trial court's finding of facts is even conclusive and binding if it is not shown to be tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The wisdom behind this rule is that the trial court had the full opportunity to observe directly the witnesses' deportment and manner of testifying, thus, it is in a better position than the appellate court to properly evaluate testimonial evidence (People of the Philippines vs. Antonio Basallo y Aprec, G.R. No. 182457, January 30, 2013).

In its assailed Decision, the RTC discussed the objections of defendants-appellants with regard to intercalations found in the tax declarations submitted by Abra Valley Colleges. Upon a review of these tax declarations, We note that, indeed, intercalations were made, and made at a date different than that written in the tax declaration. Further, We note that the evidence submitted by plaintiff-appellee - Tax Declaration No. 41785 in the name of Borgoña, Pedro/AVC INC, which cancelled Tax Declaration No. 18365 (1969) and Tax Declaration No. 4609 AVC, Borgoña, Pedro, which cancelled Tax Declaration No. 41785 (1974). If indeed, the intercalation was done to reflect the true owners of the property, Pedro Borgoña and Abra Valley Colleges, as claimed by plaintiff-appellee, then the same should have been done only once, and only in Tax Declaration No. 41785. The subsequent Tax Declaration No. 4609, should have already reflected both owners' names without intercalation. Moreover, appellee has not explained why there is Tax Declaration No. 1517 in the name of Abra Valley Colleges which cancelled Tax Declaration No. 1539 P.D. 464 (1985) but said tax declaration was cancelled by Tax Declaration No. 37459 with Pedro Borgoña, widower, in the same year of 1985. It is Tax Declaration No. 37459 which was cancelled by the subsequent tax declaration presented by plaintiffs-appellees. It is also noted that the tax declaration presented by plaintiff-appellee showing the ownership of Abra Valley Colleges stopped with Tax Declaration No. 1517 in 1985. In fine, the tax declarations submitted tend to show that the one who declared the property for taxation is Pedro Borgoña.

The next question now is whether Pedro Borgoña declared the property in behalf of the corporation. The RTC in its decision gave weight to the testimony of Francis Borgoña as follows:

> After the purchase by Pedro Borgoña of the property in dispute, the same was used as a boarding house of students, faculty and personnel of the Abra Valley Colleges, Inc.; at present, it is still known as the AVC dormitory; likewise, a portion thereof was used as classrooms for the elementary pupils of AVC, Inc.'
>
> The significance of the foregoing is that plaintiff has established his claim that AVC Inc., is the exclusive owner of the property. It must be noted that the operation, and use of the property in litigation[,] is closely limited to the purpose of AVC Inc. as an institution of learning; thus, it can be safely deduced that the property was acquired as an asset of the school; had it been the personal property of Pedro Borgoña, then it could have easily been converted into an establishment for his own personal desire or design.[22]

Noteworthy, however, is the testimony of Francis that after the execution of the Adjudication of Real Estate with Waiver and Quitclaim in 1993, those who were residing in the dormitory were paying rent to defendants-appellants. Notwithstanding plaintiff-appellee's allegation that it demanded the return of the property, the records are bereft of proof of demand. On the other hand, appellants were able to present the Deed of Sale executed between Lizardo and Pedro Borgoña only, involving the property and the duly executed Adjudication of


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Real Estate with Waiver and Quitclaim, and the Extra-judicial Partition among defendants-appellants.

We again invoke the settled rule that tax declarations are not proof of ownership but when coupled with other evidence and proof of possession, tax declarations become a good indicia of ownership. In the case at bar, the weight of evidence tends to lean in favor of defendants-appellants. By reason thereof, We are constrained to reverse the Decision of the RTC and dismiss plaintiff-appellee's complaint.

WHEREFORE, the appeal of Grace B. Insigne, Osborne Borgoña, Romulo Borgoña, Diosdado Borgoña, Imelda B. Rivera, Aristotle Borgoña, Melody Borgoña, Joseph V. Borgoña, and the Heirs of the late Octavius Borgoña, is GRANTED. The Decision dated July 16, 2009 of the Regional Trial Court, Branch 2, Bangued, Abra is REVERSED, and the Complaint in Civil Case No. 2101 for Ownership and Possession, Rescission of Quitclaim and Waiver, and Damages against defendants-appellants is DISMISSED. Costs against plaintiff-appellee Abra Valley Colleges, Inc..

**SO ORDERED.**

## CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Dicdican, I.P., Chairperson and Elibinias, M. P., JJ., concur.

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[1] Records, pp. 377-381.

[2] Records, pp. 19-22.

[3] See RTC Order, records, p. 38.

[4] Records, pp. 45-50.

[5] See Plaintiff's (appellee) pre-trial brief and Defendants' (appellants) pre-trial brief, records, pp. 67-9 and pp. 77-9, respectively,.

[6]

[7] See records, pp. 176-7.

[8] Records, pp. 192-4.

[9] Records, pp. 328-33.

[10] Records, pp. 439-442.

[11] See Opposition to the Motion, dated August 28, 2009, records, 451-6.

[12] Notice of Appeal, records, pp. 445-6.

[13] Records, pp. 457-9

[14] Records, pp. 460-5.

[15] Order, August 5, 2010, records, p. 487.


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[16] pp. 488-523.

[17] pp. 588-595.

[18] Manila Electric Company vs. Heirs Of Spouses Dionisio Deloy and Praxedes Martonito, represented by Policarpio Deloy, G.R. No. 192893. June 5, 2013.

[19] Jose Z. Casilang, Sr., substituted by his heirs, namely: Felicidad Cudiamat Vda. De Casilang, et al vs. Rosario Z. Casilang-Dizon, et al., G.R. No. 180269, February 20, 2013.

[20] Thelma Buduhan vs. Curson Pakurao, Loreta Pakurao a.k.a. Flora Pakurao and Camilo Pakurao, G.R. No. 168237, February 22, 2006.

[21] RTC Decision, pp. 431, 436.

[22] RTC, Decision, p. 17.

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