

FLORENCIA R. DEL ROSARIO, CYNTHIA LOU R. DEL ROSARIO-BERSONDA, AIDA R. DEL ROSARIO-CUAPIACO, ROLANDO R. DEL ROSARIO AND GRACE R. DEL ROSARIO, PLAINTIFFS-APPELLANTS, VS. SPOUSES ...

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the appeal[1] filed by Florencia R. Del Rosario (“plaintiff-appellant Florencia”), Cynthia Lou R. Del Rosario-Bersonda (“plaintiff-appellant Cynthia”), Aida R. Del Rosario (“plaintiff-appellant Aida”), Rolando R. Del Rosario (“plaintiff-appellant Rolando”), and Grace R. Del Rosario (“plaintiff-appellant Grace;” collectively, “plaintiffs-appellants”) assailing the Decision dated 31 October 2008[2] (“assailed Decision”) issued by the Regional Trial Court, Branch 15, Naic, Cavite (“RTC”), in a civil action for recovery of ownership and possession of real property, and damages, docketed as Civil Case Number 97-822.

The facts are as follows: On 27 May 1997, plaintiffs-appellants filed the Complaint[3] against Spouses Dominador (“defendant-appellee Dominador”) and Gracia Del Rosario (“defendant-appellee Gracia;” collectively, “defendants-appellees spouses”) before the RTC. On 28 May 1997, plaintiffs-appellants filed the Amended Complaint.[4]

The Amended Complaint alleged: Mauricio Del Rosario (“Mauricio”) and plaintiff-appellant Florencia were married and had four children (i.e.: plaintiffs-appellants Cynthia, Aida, Rolando and Grace); in 1958, Mauricio and plaintiff-appellant Florencia bought the parcel of land with an area of 219 square meters, located at Real St., San Juan, Ternate, Cavite (“subject property”), from Venancio Catatmon (“Venancio”) for P400,000.00; about November 1958, Mauricio and plaintiff-appellant Florencia built a house on the subject property and the two of them, their 4 children, Mauricio's parents, Mauricio's two sisters (Rosario and Felisa) and Mauricio's brother defendant-appellee Dominador all lived there; plaintiff-appellant Florencia paid real property taxes on the subject property; in 1965, while Mauricio was serving in the United States Navy, plaintiff-appellant Florencia had a misunderstanding with Mauricio's parents so plaintiffs-appellants left the house; on 06 June 1967, Mauricio died; plaintiffs-appellants learned that the tax declaration over the subject property had been transferred to the name of defendant-appellee Dominador through fraud and deceit; the parties underwent barangay conciliation, but they did not reach a settlement; plaintiffs-appellants made demands upon defendants-appellees spouses to vacate the subject property and surrender possession to plaintiffs-appellants, but defendants-appellees spouses refused to comply.

The Amended Complaint prayed that: Tax Declaration No. 2804 in the name of defendants-appellees spouses be cancelled and a new tax declaration in the name of plaintiffs-appellants be issued; defendants-appellees be ordered to pay P100,000.00 as moral damages, P50,000.00 as exemplary damages, P50,000.00 as attorney's fees, and P3,000 as appearance fees; other just and equitable reliefs be granted.

On 07 July 1999, defendants-appellees filed the Answer.[5] It alleged: the subject property belonged to defendants-appellees spouses who had been in actual and continuous possession; defendants-appellees spouses

acquired the subject property through extra-judicial settlement of estate with sale from Venancio; plaintiffs-appellants knew defendants-appellees were in possession of the subject property, and were estopped from contesting it; the filing of the case was made in bad faith; plaintiffs-appellants were guilty of prescription and laches.

By way of counterclaim, defendants-appellees spouses prayed that plaintiffs-appellants be ordered to pay P 50,000.00 as actual damages, P 200,000.00 as moral damages, P 30,000 as attorney's fees, and P 700.00 as appearance fees, and costs of suit.

Trial ensued.

The following persons testified for plaintiffs-appellants: custodian Rico Magante ("Magante") of the Municipal Circuit Trial Court of Maragondon-Ternate, Cavite ("MCTC"); plaintiff-appellant Florencia; Aida Cuapiaco ("Cuapiaco"); and Chief of the Questioned Documents Division of the National Bureau of Investigation ("NBI") Eliodoro Constantino ("Constantino") on rebuttal.

The evidence for plaintiffs-appellants is summarized, thus: Around 1958, plaintiff-appellant Florencia bought the subject property from Ciriaca Catatmon ("Ciriaca") and after the purchase, plaintiff-appellant Florencia and Mauricio built a house on the subject property;^[6] plaintiff-appellant Florencia's family stayed in the house together with plaintiff-appellant Florencia's parents-in-law, two sisters-in-law and brother-in-law defendant-appellee Dominador; Mauricio died of cirrhosis of the liver on 06 June 1967; in 1965, plaintiff-appellant Florencia's parents-in-law had a misunderstanding, causing her and plaintiffs-appellants Cynthia, Aida, Rolando, and Grace, to leave Ternate, and go to Maragondon; plaintiff-appellant Florencia and Mauricio declared the subject property for taxation purposes^[7], and paid the corresponding real property taxes for the years 1979^[8] and 1981^[9]; plaintiffs-appellants learned that defendants-appellees spouses caused the declaration of the subject property under their own names;^[10] on 27 June 1997, plaintiffs-appellants made a demand upon defendants-appellees spouses to vacate, and to surrender possession of the subject property^[11]; defendants-appellees spouses refused to vacate, and to surrender possession of the subject property; plaintiff-appellant Florencia suffered sleepless nights; plaintiffs-appellants engaged the services of counsel; Ciriaca told Cuapiaco that she did not execute any document of sale in favor of defendants-appellees spouses, and that the latter asked her to place her thumbmark on a blank document.

The following persons testified for defendants-appellees spouses: defendant-appellee Gracia; and Elizabeth Nueva-Nazareno ("Nueva-Nazareno").

The evidence for defendants-appellees spouses is summarized, thus: Venancio declared the property in 1980^[12] and 1985^[13] for taxation purposes; defendants-appellees spouses bought the subject property from Ciriaca, and they executed the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na May Bilihan;^[14] Clerk of Court Monzerat Magante and Nueva-Nazareno witnessed the execution of the instrument; Nueva-Nazareno saw Ciriaca listen to the reading of the instrument, and affix her thumbmark; Nueva-Nazareno was present when the instrument was notarized by Judge Cesar Zoleta; defendants-appellees spouses declared the property in 1995,^[15] 1998,^[16] and 2003^[17] for taxation purposes; defendants-appellees spouses paid real property taxes on the subject property from 1982-1983, and 1985-2004;^[18] defendants-appellees spouses were the registered owners of the subject property;^[19] the Questioned Documents Division of the NBI concluded that the word "nagbili" under the typewritten name of Ciriaca in the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na May Bilihan, was placed there ahead of Ciriaca's thumbmark;^[20] defendants-appellees spouses suffered sleepless nights and had to engaged the services of counsel because of the controversy.

The RTC issued the assailed Decision. Its dispositive portion read:

WHEREFORE, premises considered, the instant complaint is hereby DISMISSED for lack of merit.

Defendants['] counter-claim is GRANTED and this Court orders plaintiffs to pay defendants Moral damages in the amount of P50,0000.00 and Attorney's Fees in the amount of P30,000.00 plus P1,000.00 per court appearance.

SO ORDERED.

Plaintiffs-appellants filed the Motion for Reconsideration[21] of the RTC Decision. On 01 June 2010, the RTC issued the Order[22] denying the Motion for Reconsideration for lack of merit.

Thus, this appeal, with the following assignment of errors:

THE HONORABLE COURT ERRED IN FINDING THAT PLAINTIFF FAILED TO SHOW PROOF OF TITLE OF OWNERSHIP OVER THE SUBJECT MATTER OF THIS CASE[23]

The issue is whether the RTC erred in issuing the assailed Decision.

The Appellants' Brief[24] answers in the affirmative. The RTC erred in issuing the assailed Decision. It thrusts: plaintiffs-appellants were able to show possession of the oldest title to the subject property by virtue of Tax Declaration No. 960, and real property tax receipts in the names of Mauricio and plaintiff-appellant Florencia, issued in 1958; there appeared to be a double sale of the subject property, thus Article 1544 of the New Civil Code is applicable; defendants-appellees spouses' possession of the subject property was by mere tolerance of plaintiffs-appellants; defendants-appellees spouses' did not purchase the subject property in good faith, since they lived with plaintiffs-appellants and were aware that the latter purchased the subject property from the original owner; defendants-appellees spouses failed to rebut the evidence plaintiffs-appellants presented to show that the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan was fraudulently executed; defendants-appellees spouses failed to rebut the RTC's observation that the signature of Nueva-Nazareno, and the signature of the witness appearing on the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan were not exactly the same; the document purporting to be the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan, and the document examined by the expert were two wholly different documents; plaintiffs-appellants' Tax Declarations were superior to defendants-appellees spouses' Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan.

The Brief for the Defendants-Appellees[25] answers in the negative. The RTC did not err in issuing the assailed Decision. It parries: plaintiffs-appellants did not have a cause of action against defendants-appellees spouses, because the latter were in actual and continuous possession of the subject property; Venancio and his wife, the original owners of the subject property, sold the subject property to defendants-appellees spouses; defendants-appellees spouses were paying the real property taxes on the subject property; the Municipal Treasurer of Ternate, Cavite certified that defendants-appellees spouses were the registered owners of the subject property under Tax Declaration No. 20-003-00478, and that real property taxes were paid until 2005; the validity of the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan was not disproved, since no evidence was presented to prove its falsity, or the falsity of the seller's thumbmark appearing there; the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan was a notarized document, which enjoyed the presumption that it was duly prepared and thumbmarked in accordance with the rules, and that the notary public who notarized the document regularly performed duties; plaintiffs-appellants' documentary and testimonial evidence on the invalidity of the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan, were not presented before the RTC, and thus were inadmissible in evidence.

THE COURT'S RULING

We rule in the negative. The RTC did not err in issuing the assailed Decision.

Plaintiffs-appellants aver that they proved they had the oldest title over the subject property.

We disagree.

Rule 133, Section 1 of the Rules of Court is relevant. It reads:

SECTION 1. Preponderance of evidence, how determined. - In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon trial. The court may also consider the number of witnesses, though preponderance is not necessarily with the greater number.

“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 credible evidence.”[26]

In this case, plaintiffs-appellants sought to prove their claim of ownership over the subject property by adducing in evidence the following: Tax Declaration No. 960; real property tax receipts for the years 1979 and 1980; the Sinumpaang Salaysay of Luay; and the testimonies of plaintiff-appellant Florencia and Cuapiaco.

On the other hand, defendants-appellees spouses presented as evidence the following: Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan; tax declarations in the name of Venancio; tax declarations in defendants-appellees spouses' names; real property tax receipts for the years 1982-1983, and 1985-2004; the Certification from the Office of the Treasurer of the Municipality of Ternate; and the testimonies of defendant-appellee Gracia and Nueva-Nazareno.

We find that the plaintiffs-appellants failed to prove their case by a preponderance of evidence.

The plaintiffs-appellants' Tax Declaration No. 960, and real property tax receipts for the years 1979 and 1980 are inadmissible in evidence because they were mere photocopies. The Sinumpaang Salaysay of Luay cannot be given full credence since the affiant, who claimed to be the master carpenter who participated in the construction of the house, was not presented for cross-examination. The testimony of Cuapiaco is hearsay because she testified that Ciriaca only told her that she (Ciriaca) did not place her thumbmark on the instrument of sale in favor of defendants-appellees spouses. Lastly, plaintiff-appellant Florencia's testimony cannot be conferred great weight since it is self-serving.

We give greater weight of evidence to the proof adduced by defendants-appellees.

Defendants-appellees spouses were able to produce in evidence the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan executed on 21 March 1994, evidencing transfer of ownership over the subject property from Ciriaca (the sole heir and daughter of Venancio), to defendants-appellees spouses Del Rosario. The genuineness and due execution of the instrument was confirmed by Nueva-Nazareno, who was one of the witness in the execution of the Labas sa Hukumang Pagsasalin ng Pagaari ng Namatay na may Bilihan. Defendants-appellees spouses also adduced in evidence the following documents: Tax Declaration Nos. 89, 910, 2804, 97-01895, and 20-003-00478 (to prove that Venancio declared the subject property for taxation purposes in

1980 and 1985, and that defendants-appellees spouses declared the subject property for taxation purposes in 1995, 1998, and 2003); real property tax receipts (to prove payment of real property taxes for the years 1982-1983, and 1985-2004); and Certification from the Office of the Treasurer of the Municipality of Ternate (stating that defendants-appellees spouses are the registered owners of the property as per the latest tax declaration on record).

We DISMISS the appeal, and AFFIRM the Decision dated 31 October 2008 issued by the Regional Trial Court, Branch 15, Naic, Cavite, in Civil Case Number 97-822.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

[1] CA Rollo, p. 15.

[2] Records, p. 380.

[3] Records, p. 01.

[4] Records, p. 15.

[5] Records, p. 25.

[6] Sinumpaang Salaysay of Francisco E. Luay, Exhibit “J,” Records, p. 226.

[7] Tax Declaration No. 960, Exhibit “A,” Records, p. 07.

[8] Real Property Tax Receipt Nos. 3243606 and 3243607, Exhibits “B” and “C,” Records, p. 08.

[9] Real Property Tax Receipt Nos. 1355571 and 1355570, Exhibits “E” and “D,” Records, p. 09.

[10] Tax Declaration No. 3327-R, Exhibit “F,” Records, p. 10.

[11] Demand letter, Exhibit “I,” Records, p. 14.

[12] Tax Declaration No. 89, Exhibit “2,” Records, p. 272.

[13] Tax Declaration No. 910, Exhibit “3,” Records, p. 273.

[14] Exhibits “1” to “1-G,” Records, p. 270.

[15] Tax Declaration No. 2804, Exhibit “4,” Records, p. 274.

[16] Tax Declaration No. 97-01895, Exhibit “4-A,” Records, p. 275.

[17] Tax Declaration No. 20-003-00478, Exhibit “4-B,” Records, p. 276.

[18] Real Property Tax Receipt Nos. 2783438, 7336679, 6243310, 1639368, 9913994, 5552380, 5410323, 0681452, 7222916, 8729381, 1015983, 2551177, 6219116, 1252196, CAV. 43170, CAV. 86787, 1301577, Exhibits “5” to “5-P,” Records, pp. 277-293.

[19] Certification dated 10 May 2005, Exhibit “6,” p. 294.

[20] Questioned Documents Report No. 321-601, Exhibit “7,” Records, p. 295.

[21] Records, p. 384.

[22] Records, p. 400.

[23] Supra, at note 1.

[24] Id.

[25] CA Rollo, p. 36.

[26] Ogawa v. Menigishi, G.R. No. 193089, 09 July 2012, citing Amoroso v. Alegre, G.R. No. 142766, 15 June 2007.

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