

**CATALINO AGAPITO, SR., REPRESENTED BY HIS
ATTORNEY-IN-FACT, CATALINO AGAPITO, JR.,
PLAINTIFF-APPELLEE, VS. DANILO REYES, DARIO CARPIO, JOSE
MANALO AND DENNIS TOMAS, DEFENDANTS-A...**

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is an appeal from the Decision[1] rendered by Judge Celso O. Baguio of Branch 34 of the Regional Trial Court of the Third Judicial Region in Gapan City, Nueva Ecija (“trial court”) on November 15, 2012 in Civil Case No. 4075-11 which, inter alia, granted the complaint for recovery of possession of land and damages that was filed by the herein plaintiff-appellee against the defendants-appellants in the said trial court (“assailed decision”).

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint[2] for the recovery of possession and damages that was filed by herein plaintiff-appellee Catalino Agapito, Sr., represented by his son and attorney-in-fact, Catalino Agapito, Jr. (“plaintiff-appellee”), against herein defendants-appellants in the trial court on November 11, 2011. In the said complaint, the plaintiff-appellee alleged that he was the registered owner of a parcel of land covered by Original Certificate of Title No. P-3572[3] with an area of Thirty Six Thousand Three Hundred Seventy One (36,371) square meters located at Sitio Along-Along, Barangay Papaya, San Antonio, Nueva Ecija (“subject property”). The said property had a market value of Twenty Seven Thousand One Hundred Sixty Nine Pesos and 13/100 (Php27,169.13).[4] Herein plaintiff-appellee averred that he had left the administration of the subject property to his son and attorney-in-fact, Catalino Agapito, Jr. (“Agapito, Jr.”), and the latter cultivated the same with the aid of some farm employees. Agapito, Jr. and the other farmers obtain palay harvest amounting to at least Fifty Thousand Pesos (Php50,000.00) per crop season.

On November 12, 2010, however, herein defendants-appellants suddenly entered the subject property without any permission or agreement with the plaintiff-appellee. The incident was reported to the police station of San Antonio, Nueva Ecija, where a Blotter Entry[5] was made dated December 10, 2010 stating the fact of said entry, as well as the threats that were made by the defendants-appellants upon the farmers who were then cultivating the subject property.

Thus, in view of the said incident, the plaintiff-appellee filed a complaint for forcible entry against the defendants-appellants in the Municipal Trial Court of San Antonio, Nueva Ecija (“MTC of San Antonio”). The said case was docketed as Civil Case No. 2263. In the decision of the MTC of San Antonio in the said case, however, the said complaint for forcible entry was dismissed on September 8, 2011 for failure of the plaintiff-appellee to prove a cause of action.[6] In the meantime, the defendants-appellants were still in possession of the subject property to the exclusion of the plaintiff-appellee and his farmers.

The foregoing antecedents prompted herein plaintiff-appellee to file the instant complaint in the trial court,

praying that a writ of preliminary injunction be issued directing the defendants-appellants to surrender the possession of the subject property in favor of the plaintiff-appellee. Moreover, the latter prayed that the defendants-appellants be ordered to pay him reasonable rentals for their use and cultivation of the subject property from November 2010 up to the time when the defendants-appellants shall have surrendered the possession of the said subject property to the plaintiff-appellee.

Summonses were thereafter served upon the defendants-appellants by the trial court requiring the latter to file their respective answers to the complaint within fifteen (15) days from their receipt thereof. In their Answer[7], the defendants-appellants denied the material allegations that were hurled against them by the plaintiff-appellee. The defendants-appellants contended that the plaintiff-appellee had no cause of action against them in that they did not commit any act or omission to the prejudice of the plaintiff-appellee. While the defendants-appellants admitted that they were cultivating a particular property, they insisted that the said property which they had been cultivating was not owned by the plaintiff-appellee. More particularly, the defendants-appellants averred that defendant-appellant Dennis Tomas was cultivating a land which was owned by the “Solteras siblings” while, on the other hand, defendants-appellants Jose Manalo, Danilo Reyes and Dario Carpio were all tenants who were working on separate portions of a land that was owned by Spouses Estanislao Dela Cruz and Maria Dela Paz Clemente.

Furthermore, the defendants-appellants countered that they had never entered or encroached the subject property. In addition, they insisted that there was no occasion whereby they were invited by the police authorities of San Antonio, Nueva Ecija, relative to the commission of any unlawful act, specifically the acts which were stated by the plaintiff-appellee in the instant complaint.

Moreover, the defendants-appellants maintained that Republic Act No. 7691 was clear in that the assessed value, not the market value, of a real property would determine which court had jurisdiction over a case. In the instant case, the defendants-appellants pointed out that the tax declaration which was attached to the complaint that was filed by the plaintiff-appellee in the trial court did not indicate the assessed value of the subject property. Consequently, the defendants-appellants claimed that the case should be dismissed in that it was not clear whether or not the trial court had jurisdiction over the same.

During the pre-trial of the case on February 23, 2012, the plaintiff-appellee appeared through his attorney-in-fact, Agapito, Jr. On the other hand, the defendants-appellants failed to appear although their counsel was in court. In view of the absence of the defendants-appellants during the pre-trial of the case, the same was reset to April 12, 2012. On the latter date, however, both the defendants-appellants and their counsel likewise failed to appear despite notice. Thus, upon motion of the counsel for the plaintiff-appellee, the latter was allowed by the trial court to present his evidence ex parte.

On November 15, 2012, the trial court rendered the herein assailed decision the decretal portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

“1. Ordering the defendants and all other persons acting for and in their behalves to peacefully surrender possession of the portion of the subject property covered by OCT No. P-3572 occupied by them in favor of the plaintiff;

“2. Ordering the defendants to pay the plaintiff a reasonable rental for their use and cultivation of the subject land in the amount of P5,000.00 per cropping season effective on November 2010 until the same shall have been surrendered and turned over to the plaintiff.

“3. Costs against the defendants.

'SO ORDERED.'

In ruling for the plaintiff-appellee, the trial court ratiocinated:

“Plaintiff's ownership of the subject land holding is sufficiently proven by the testimonies of Catalino, Jr., witness Javier and Engineer Clerigo and by the documentary exhibits that were formally offered in support thereof. The survey report as well as the verifications plan (under Civil Case No. 4075) submitted by Clerigo who acted in compliance with the order of this court, shows quite clearly that the subject property described in the complaint is a portion of a 36,371 square meter property covered by OCT No. P-3572 owned by the plaintiff. Clerigo's testimony and the verification plan he submitted to the court clearly established plaintiff's ownership of the subject property that is presently cultivated by the defendants.”

Undaunted by the foregoing disquisition of the trial court, the defendants-appellants filed the instant appeal raising the following errors which were purportedly committed by the trial court, to wit:

I.

THE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR IN RULING IN FAVOR OF THE PLAINTIFF-APPELLEE IN THAT THE SAID RULING HAD NO BASIS IN FACT AND IN LAW.

II.

THE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR IN GRANTING PLAINTIFF-APPELLEE'S PRAYER FOR RECOVERY OF POSSESSION, CONSIDERING THAT THE DEFENDANTS-APPELLANTS WERE NOT IN POSSESSION OF THE SUBJECT PROPERTY.

In sum, the sole issue brought before this Court for resolution is whether or not the trial court erred when it ordered the defendants-appellants to surrender the possession of the subject property in favor of the plaintiff-appellee. After a careful and thorough review of the facts, law and issues of this case, we find the instant appeal to be bereft of merit.

In their appeal that was filed in this Court, the defendants-appellants merely reiterated the exact same allegations which they stated in their answer to the complaint that was filed in the trial court. These allegations, however, were never proven in that the defendants-appellants failed to appear twice during the pre-trial of the case. Corollary thereto, Sections 4 and 5 of Rule 18 of the Rules of Court provide:

“Section 4. Appearance of parties. - It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor, or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

“Section 5. Effect of failure to appear. - The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex parte and the court to render judgment on the basis thereof.”

In the case at bench, no valid cause was shown or even offered by the defendants-appellants why they never appeared during the scheduled pre-trial conference of the case on February 23, 2012 and April 12, 2012. Even during the next scheduled pre-trial on May 31, 2012, the defendants-appellants and their counsel likewise failed to appear despite notice to them. Thus, the trial court allowed the plaintiff-appellee to present his evidence ex parte.

During the presentation of evidence by the plaintiff-appellee, the trial court directed one Engineer Fernando

Clerigo (“Engr. Clerigo”), chief of the survey party of the Regional Office of the Department of Environment and Natural Resources (DENR) at Pampanga, to conduct a relocation survey on the subject property and to determine the metes and bounds of the same. This was ordered by the trial court with the end in view of determining whether or not the subject property was the same parcel of land which the defendants-appellants had been cultivating. An ocular inspection on the subject property was then made by Engr. Clerigo in the presence of Agapito, Sr., defendant-appellant Danilo Reyes and the branch clerk of the trial court. Engr. Clerigo thus submitted the following Report[8]:

“1. That, Lot 4086 Csd 981 is located in Sitio Along-Along, Barangay Papaya, San Antonio, Nueva Ecija and covered by OCT No. P-3572 with an area of 36,371 square meters and registered in the name of Catalino Agapito, Sr.;

xxx

“3. That, as per actual verification on the ground, a portion of 3,822 square meters more or less was inside Lot 4086, Cad 981 and physically occupied by Danilo Reyes, Dependant (sic) on this case;”

Based on the findings of fact by the trial court which, in turn, was based on the relocation survey that was conducted by Engr. Clerigo of the DENR, it is evident that a portion of the subject property was, indeed, being occupied and cultivated by defendant-appellant Danilo Reyes. The presumption that the government surveyors regularly perform their duties could not be disputed by mere speculations and conjectures[9], especially in this case when the defendants-appellants never disputed the said claim during the trial of the case. As held by the Supreme Court in the case of *Cajayon v. Spouses Santiago*: [10]

“Moreover, there is a presumption that official duty is regularly performed, i.e., government officials who perform them are clothed with the presumption of regularity, as the courts below pointed out. In this case, the verification survey was conducted by a government functionary.”

Likewise, in the case of *Heirs of Pabaus v. Heirs of Yutiamco*, [11] the Supreme Court declared that, in disputes involving overlapping of land titles, it had always been the practice for the trial courts to appoint a surveyor from the government agencies. Thus:

“The case of overlapping of titles necessitates the assistance of experts in the field of geodetic engineering. The very reason why commissioners were appointed by the trial court, upon agreement of the parties, was precisely to make an evaluation and analysis of the titles in conflict with each other. Given their background, expertise and experience, these commissioners are in a better position to determine which of the titles is valid. Thus, the trial court may rely on their findings and conclusions.

“However, in overlapping of titles disputes, it has always been the practice for the court to appoint a surveyor from the government land agencies – the Land Registration Authority or the DENR – to act as commissioner.
xxx”

In this regard, we agree with the ruling of the trial court, to wit:

“Such identification of the subject property by no less than a government land surveyor who acted in compliance with the order of the court bolsters the plaintiff’s claim that he was in lawful possession and cultivation thereof until defendants forcibly took it away from him in 2010. There is no better proof of that incident than the testimony of witness Michael Javier who narrated how he and other farm workers were forced to flee for their lives from the subject land after they were threatened with bolos by the defendants. It is likewise shown that the said incident was reported to the police authorities of San Antonio by plaintiff’s son Catalino, Jr. on 10 December 2010. Although police officer Jay Daquiz who recorded the incident in the police blotter was not called to the witness stand to authenticate and identify the certification he issued, the same was

admitted by the court as part of the testimony of plaintiff's son. xxx"

Section 1 of Rule 131 of the Rules of Court provides that the burden of proof is the duty of a party to prove the truth of his or her claim or defense, or any fact in issue by the amount of evidence required by law. In civil cases, the law requires that the party who alleges a fact has the burden of proving it.[12] More specifically, Section 1 of Rule 133 of the Rules of Court states that, "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 the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number."

In the case at bench, this Court agrees with the finding of the trial court that the plaintiff-appellee was able to prove his case by preponderance of evidence. Corollary thereto, settled is the rule that the person who holds a title to a land is entitled to all the attributes of ownership of the property, including possession.[13] Consequently, the plaintiff-appellee, having proven that he is the registered and absolute owner of the subject property, is likewise entitled to the possession of the said property to the exclusion of herein defendants-appellants.

At this point, it may not be amiss to note that factual findings of a trial court deserve a high degree of respect and will not be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would alter the outcome of the case.[14] In the case at bench, we find no cogent reason to disturb the factual findings of the trial court since such findings are amply supported by a preponderance of evidence. Favorable relief can be granted only after the court has ascertained that the evidence offered and the facts proven by the presenting party warrant the grant of the same.[15] We find the foregoing to have been sufficiently established in this case and, thus, we agree with the disposition of the trial court finding that the instant complaint for recovery of possession of land should be granted in favor of the plaintiff-appellee, being the true owner of the subject property and, therefore, entitled to its possession.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the instant appeal for lack of merit. The Decision rendered by Branch 34 of the Regional Trial Court of the Third Judicial Region in Gapan City, Nueva Ecija on November 15, 2012 in Civil Case No. 4075-11 is hereby AFFIRMED.

SO ORDERED.

Paredes[*] and Galapate-Laguilles,**] JJ., concur.

[*]Acting Senior Member vice J. Elbinias per Office Order No. 258-14-ABR dated June 2, 2014.

[**]Acting Junior Member vice J. Paredes per Office Order No. 258-14-ABR dated June 2, 2014.

[1] Record, Civil Case No. 4075-11, pages 128-133.

[2] Ibid, pages 2-6.

[3] Ibid, Exhibit "C"-C-1", pages 7-8.

[4] Ibid, page 9.

[5] Ibid, Exhibit “D”, page 10.

[6] Ibid, Exhibit “E”, pages 11-17.

[7] Ibid, pages 24-33.

[8] Ibid, page 65.

[9] Gabi Multi-Purpose Cooperative, Inc. v. Republic of the Philippines, G.R. No. 155126, November 9, 2004.

[10] G.R. No. 149118, February 16, 2006.

[11] G.R. No. 164356, July 27, 2011.

[12] Vitarich Corporation v. Losin, G.R. No. 181560, November 15, 2010.

[13] Urieta v. Spouses Alfaro, G.R. No. 164402, July 5, 2010.

[14] People vs. Quinao, 269 SCRA 495

[15] Luxuria Homes, Inc. vs. Court of Appeals, 302 SCRA 315

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