

DELIA SALAS GUEVARRA, PLAINTIFF-APPELLANT, VS. SPS. SALVACION AND ROMEO CASIDSID, DEFENDANTS-APPELLEES.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Before Us is an Appeal[1] from the Decision[2] dated December 29, 2009 of the Regional Trial Court, Sixth (6th) Judicial Region, Branch 8, Kalibo, Aklan in Civil Case No. 7417 for Legal Redemption.

The Antecedents

Subject of the present controversy is Lot No. 336 situated at Barangay Poblacion, Nabas, Aklan, which is particularly described as follows:

“A parcel of Agricultural land (Lot 336) containing an area of SEVEN THOUSAND NINE HUNDRED FIVE (7,905) SQUARE METERS, more or less, located at Brgy. Poblacion, Nabas, Aklan. Bounded on the North by Lot Nos. 340, 337, and 299; on the East by Lot No. 298; on the South by Depression; and on the West by Lot No. 357 pt. covered by ARP/TD No. 93-001-0102, PIN-038-14-001-03-014, declared in the name of Fannie J. Salas, with assessed value of=P=21,250.00, for tax effectivity 1994.”[3]

Version of the Plaintiff-Appellant

Plaintiff-appellant Delia Salas Guevarra alleged in her Complaint[4] that she is the adjoining owner of the aforementioned Lot No. 336. Her own land (Lot No. 299) is covered by Original Certificate of Title No. P-32010[5] with an area of 7,445 square meters, located at Brgy. Poblacion, Nabas, Aklan.

Lot No. 336 is originally declared in the name of Leona C. Sardina, under Tax Declaration No. 1082[6] for the year 1956. When the original owner died, the said property was adjudicated and transferred to her son, Arestoteles Sardina,[7] whereby Tax Declaration No. 431[8] was issued in his name. In 1985, Arestoteles Sardina sold the disputed property to Fannie J. Salas, consequently, Tax Declaration No. ARP/TD No. 93-001-0102 was issued.

While the property was owned by Arestoteles Sardina, plaintiff-appellant's father, Ramon Salas was designated as tenant over the whole parcel of land. Ramon Salas' possession over the property started in the year 1971. He developed and transformed it into a fishpond, for which he incurred cost amounting to more than P100,000.00.

Upon the death of Ramon Salas, being his daughter, plaintiff-appellant took over the management of the fishpond. Like her father, plaintiff-appellant possessed the property as tenant even if it was already sold to Fannie Salas. She also turned over to the new owner Fannie Salas the latter's share every harvest.

On December 4, 2004, plaintiff-appellant's possession over the land was discontinued as defendants-appellees by force, intimidation, strategy and stealth entered the land and unlawfully drove her off. This incident was blotted at the PNP station.[9]

It was only on December 17, 2004 that plaintiff-appellant came to know that the disputed property was already sold by Fannie Salas to defendant-appellee Salvacion Casidsid through a Deed of Absolute Sale[10] executed on December 2, 2004.

Plaintiff-appellant was never informed about the sale, neither did she receive any offer from the vendor Fannie Salas to buy the property considering that she is an adjoining owner of the land.

Plaintiff-appellant and defendants-appellees met several times at the Office of the Lupong Tagapamayapa, wherein plaintiff-appellant asked that she be reimbursed of the expenses she spent for the land's improvement.

On January 7, 2005, defendants-appellees through illegal means destroyed the bamboo fence, uprooted the nipa plants and placed a no trespassing sign on the property. Defendants-appellees also opened the outlet of the fishpond and took away the fishes and the crablets. Again, such incident was reported[11] to the authorities.

In gist, plaintiff-appellant wanted to redeem the disputed property by exercising her right to legal redemption.

Plaintiff-appellant presented as witnesses herself, Hernani Sabar, Romeo Balidio and Ernie Legas.

Version of the Defendants-Appellees

Defendants-appellees spouses Romeo and Salvacion Casidsid averred in their Answer[12] that the original owner Leona Sardina is the mother of defendant-appellee Salvacion Casidsid. Arestoteles Sardina, therefore is her brother.

Meanwhile, Ramon Salas, the alleged tenant of the disputed parcel of land is the father-in-law of Arestoteles Sardina.

Defendants-appellees further alleged that it was only in 1974 that the land was adjudicated to Arestoteles Sardina, hence he could have not designated Ramon Salas as tenant of the land in 1971. Moreover, Ramon Salas never took possession of the land, as it was Feliciano Solanoy who was tasked to be the caretaker of the disputed property. In addition, there was no truth to the allegation that Ramon Salas spent money for the land as the improvements made thereon were from the pocket of Fannie Salas.

Likewise, plaintiff-appellant was also never in possession of the subject property as the latter was a teacher by profession who worked in Manila for a considerable length of time.

Defendants-appellees also deny the allegation that they dispossessed the plaintiff-appellant. When the caretaker Feliciano Solanoy cut the nipa plants and opened the gate of the fishpond to let the water in, he was only performing the duties assigned to him by the owner of the property.

There was also no truth to the allegation that plaintiff-appellant was not informed about the sale. In fact, defendant-appellee Salvacion Casidsid notified the former of her intention to buy back the land from Fannie Salas as it used to belong to her grandparents. In fact, upon hearing this, plaintiff-appellant never opposed such a proposition.

Defendant-appellee Salvacion Casidsid testified during the trial. She also presented as witnesses Melba Solanoy and Melchor Solanoy.

After the parties submitted their respective briefs, a Pre-trial Order was issued by the trial court, which was later on amended. The following were the pertinent admissions and/or stipulation of facts contained in the Amended Pre-trial Order,[13] viz:

1. The identity of the land in question is that described in paragraph 2 of the Complaint;
2. That the land is declared in the name of Fannie Salas as of 1994, and is now presently declared in the name of Salvacion Casidsid;
3. That plaintiff is the adjoining owner North of the land subject matter of this case designated as Lot 299;

4. That Lot 299 is now covered by Katibayan ng Orihinal na Titulo Blg. P-32010 registered in the name of Delia Salas, the plaintiff in this case;
5. That plaintiff Delia Salas is the daughter of Ramon Salas;
6. The present possessor of the land, are the defendants. They started their possession on December 4, 2004;
7. That there was a confrontation between the plaintiff and defendants on December 17, 2004 before the Office of the Lupong Tagapamayapa of Poblacion, Nabas, Aklan;
8. That the land in question is a rural land/agricultural land;
9. That the land in question forms part of that bigger parcel of land used to belong to Leona Sardina covered by Tax Declaration No. 10822 for the year 1956 and the remaining area after deducting the land in question is about 2000 plus square meters which is a cocal portion;
10. That there is no dispute on the remaining area of 2000 plus square meters;
11. That the share of Arestoteles Sardina from the estate of Leona Sardina pursuant to a Deed of Partition which share is now the land in question was sold to Fannie Salas, her sister-in-law;
12. That Fannie Salas sold the land to the defendants;
13. That Ramon Salas is the father-in-law of Arestoteles Sardina; and
14. That there was a previous Fishpond Lease Agreement Application filed by the original owner.

The parties further agreed on the following issues for resolution of the trial court:

1. Whether or not the plaintiff is a previous lessee of the land in question;
2. Whether or not plaintiff has the right of redemption as adjoining owner and as lessee;
3. Whether or not the plaintiff exercised her right of redemption as a previous lessee and/or preemption as an adjoining owner within thirty (30) days from notice of sale in writing; and
4. Who among the parties are entitled to damages.

The Ruling of the Regional Trial Court

In a Decision[14] dated December 29, 2009 the Regional Trial Court, Sixth (6th) Judicial Region, Branch 8, Kalibo, Aklan in Civil Case No. 7417 ruled in favor of the defendants-appellees. The dispositive portion of the assailed resolution reads:

“WHEREFORE, in the light of the foregoing, the instant case is hereby DISMISSED.

Costs against the plaintiff.

SO ORDERED.”[15]

Unsatisfied, petitioner-appellant filed a Motion for Reconsideration[16]; however, such was denied by the trial court in an Order[17] dated February 24, 2010.

Hence, this appeal.

Assignment of Errors

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT RULED THAT THE PLAINTIFF-APPELLANT WAS NOT A LESSEE OF THE LAND IN

QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT RULED THAT THE PLAINTIFF-APPELLANT HAS NO RIGHT OF REDEMPTION AS ADJOINING OWNER OVER THE LAND IN QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT DID NOT RULE THAT THE DEFENDANTS-APPELLEES ARE NOT THE ADJOINING OWNERS OF THE LAND IN QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT DID NOT RULE THAT THE PLAINTIFF-APPELLANT IS ALSO THE RELATIVE OF THE PREVIOUS OWNER OF THE LAND IN QUESTION.

The Ruling of this Court

The appeal is not meritorious.

In civil cases, basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle equally holds true, even if the defendant had not been given the opportunity to present evidence because of a default order. The extent of the relief that may be granted can only be as much as has been alleged and proved with preponderant evidence required under Section 1 of Rule 133 of the Revised Rules on Evidence.[18]

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 the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.[19]

Anent thereto, it is also axiomatic that the assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand, a vantage point denied appellate tribunals.[20]

Guided by the above-mentioned principles and after a scrutiny of the evidence and records of the case, We find no cogent reason to divert from the findings of the trial court.

Basically, plaintiff-appellant in this case invokes her right to legal redemption considering that she was allegedly a lessee of the land, an adjoining lot owner and the nearest kin of the seller.

We are not persuaded.

In retrospect, to prove her claim of possession by virtue of her being an alleged lessee or tenant, plaintiff-appellant presented the testimonies of Hernani Sabar, Romeo Balidio and Ernie Legas. However, these testimonies are in contrast with her claim of possession and tenancy. Pertinent portions of these testimonies are reproduced hereinunder as follows:

Testimony of Hernani Sabar

Q: Do you know Mr. Witness, if the plaintiff in this case Delia Salas Guevarra ever took possession of this land subject matter of this case before it was sold to Salvacion Casidsid?

A: No, sir.

Q: When you say “No”, what do you mean?

A: I do not know.

Q: And who was in possession of that land during that time, Mr. witness, if Delia Salas never took possession of the land before it was sold to Salvacion Casidsid?

A: That is what I do not know.[21]

x x x

Q: And you said that you are not so familiar with this land, do you remember having said that?

A: Because I just only pass by that land.

Q: And that was before Salvacion Casidsid bought the land that you have been passing that land?

A: Yes, sir when I go to the beach.

Q: But you are not aware if who was in possession of the same while you were passing that land in going to the beach?

A: Naturally the one in possession is the owner.

Q: And who was the owner before?

A: Arestoteles Sardina.

Q: The brother of Salvacion Casidsid?

A: Yes, sir.[22]

x x x

Testimony of Romeo Balidio

Q: And during that time who was in complete possession of the land when you used to pass by that land?

A: During that time it was possessed by Telly Sardina.

Q: Who is this Telly Sardina?

A: He is a police of Nabas.

Q: How is this Telly Sardina related to Delia Salas, the plaintiff in this case?

A: Telly Sardina is the husband of Delia's sister.[23]

x x x

Q: After you constructed the nipa hut the plaintiff Delia Salas Guevarra live [sic] in that house?

A: She is already residing on [sic] that house which I repaired after constructing the nipa house.

Q: It is now clear that Delia Salas Guevarra was residing on [sic] her house located on her own lot and not on the nipa hut which you constructed on the land in question?

A: Yes, sir.[24]

x x x

Testimony of Ernie Legas

Q: Since when has this Ciano Solanoy been cultivating or producing the land?

A: Since I arrived in that place.

Q: You mean to say that in the year 2000 Ciano Solanoy was already there?

A: Yes, sir.

Q: And in the year 2000, do you know who owns the fishpond?

A: Yes, sir.

Q: Who?

A: Delia Salas.

Q: You mean, Delia Salas-Guevarra, the plaintiff in this case?

A: Yes, sir.

Q: And have you seen any document showing her proof of ownership of the fishpond?

A: No, sir.

Q: And your knowledge that Delia Salas owns the property was merely told to you by her?

A: Yes, sir.[25]

x x x

Clearly, these testimonies of the witnesses do not in any way sufficiently buttress plaintiff-appellant's allegation of possession. Neither do these testimonies show that she was a previous lessee or tenant of the disputed property. What makes these claims even more suspect are the absence of a written lease agreement and the Certification/Attestation[26] issued by the former owner Fannie Salas negating such contentions.

Plaintiff-appellant would also like to impress upon this Court that her father enjoyed a tenancy relationship with the previous owner, thus upon his death, she became the new tenant and continued to manage the property.

On this score, jurisprudence elucidates that (a)gricultural tenancy exists when all the following requisites are present: 1) the parties are the landowner and the tenant or agricultural lessee; 2) the subject matter of the relationship is an agricultural land; 3) there is consent between the parties to the relationship; 4) the purpose of the relationship is to bring about agricultural production; 5) there is personal cultivation on the part of the tenant or agricultural lessee; and 6) the harvest is shared between landowner and tenant or agricultural lessee.[27]

In the instant case, petitioner-appellant miserably failed to establish the presence of these elements. In fact, the existence of this alleged tenancy relationship was never proven by preponderant evidence. Moreover, as discussed earlier, the previous owner issued a statement denying tenancy and any lease agreement entered into with the plaintiff-appellant, hence, the element of consent is undisputedly wanting. Suffice it to state, with the failure to substantiate these vital requisites, the claim of tenancy will not succeed.

Having settled these important issues, We now deal with the propriety of plaintiff-appellant's invocation of the right to legal redemption.

Article 1621 of the Civil Code of the Philippines states:

"Article 1621. The owners of adjoining lands shall also have the right of redemption when a piece of rural land, the area of which does not exceed one hectare, is alienated, unless the grantee does not own any rural land.

"The right is not applicable to adjacent lands which are separated by brooks, drains, ravines, roads and other apparent servitudes for the benefit of other estates.

"If two or more adjoining owners desire to exercise the right of redemption at the same time, the owner of the adjoining land of smaller area shall be preferred; and should both lands have the same area, the one who first requested the redemption."[28]

To begin with, the facts and records of the case would show that both the plaintiff-appellant and the defendants-appellees are adjacent owners of the disputed property. The Sketch Plans[29] indicate

plaintiff-appellant's Lot No. 299 is among the properties adjoining Lot No. 336 in the northern portion; while defendants-appellees' Lot No. 333 is among the properties adjoining Lot No. 336 in the southern portion. Having these in mind, We look into the cited jurisprudence of the RTC, the old but applicable case of *Del Pilar v. Catindig*[30] which states that legal redemption can only be invoked against a stranger or a third party and not among the adjacent owners. Excerpt of the ruling germane to the instant discussion is as follows:

The right of redemption by adjacent owners cannot be exercised by any of these latter among themselves, but only by them against a stranger who acquires from any one of them, by purchase or gift, in payment, or by any other title for value, a rural estate of the area fixed by law.

Also in *Spouses Fabia v. Intermediate Appellate Court*[31], citing *Del Pilar v. Catindig*, the rationale behind the right of redemption was fully explained, thus:

As expressed in *Del Pilar v. Catindig* (35 Phil. 263) the reason for the law in question is to foster the development of agricultural areas by adjacent owners who may desire the increase for the improvement of their own land." The intention of the law in giving this right of redemption is to protect agriculture, by the union of small agricultural lands and those adjoining thereto under one single owner for their better exploitation. (Tolentino, *The Civil Code of the Philippines, Annotated, Volume V*, 1959 Edition, p. 161)

Anent thereto, it can be inferred that the right of legal redemption only finds application when the land is sold to a third person, as such act defeats the purpose for which the law was created.

Thus, We quote the sound ratiocination of the trial court, to wit:

Legal redemption can only be enforced against a stranger who buys the property sought to be redeemed and not against another adjacent owner who has the same interest, as the defendant in the case at bar who is the owner of a portion of land which, together with Lot No. 366 [sic], used to be one (1) parcel of land then belonging to Leona Sardina.

Further, Exhibit "2" (for the defendant), Extrajudicial Settlement of Estate of the Deceased Leona Sardina, shows that of the land belonging to Leona Sardina, Salvacion Casidsid inherited a portion with an area of 626 square meters only, while Lot 299 belonging to the plaintiff has an area of 7445 square meters (complaint, paragraph 3). (In Exhibit "5" for the defendant, Lot No. 333 belonging to the defendant has an area of 2336 square meters). The last paragraph of Article 1621 of the Civil Code states: "If two or more adjoining owners desire to exercise the right of redemption at the same time, the owner of the adjoining land of smaller area shall be preferred; x x x"[32]

Still undeterred, plaintiff-appellant posits that the property of the defendants-appellees do not adjoin Lot No. 336, as a creek separates both properties.

Like the RTC, We are not convinced.

The Sketch Plan clearly indicates a depression and not a creek. A depression is simply a hollow[33] portion of the property. Moreover, there was also absence of evidence suggesting that such a depression was used for the benefit of the other estates. Indubitably, it does not fall within the purview of paragraph 2 of Article 1621 of the Civil Code of the Philippines, which speaks of brooks, drains, ravines, roads and other apparent servitudes for the benefit of other estates.

Finally, taking guidance from the last paragraph of the same provision, We agree with the trial court's ruling giving preference to the defendants-appellees, in view of the fact that between the two adjacent properties, defendants-appellees' land certainly has the smaller land area. It is only correct then to uphold the sale of the disputed land to the defendants-appellees pursuant to paragraph 3 of Article 1621 of the Civil Code of the

Philippines.

Hence, all told, We find the trial court's decision proper as it is in accordance with the law. Likewise, the dismissal of the case was warranted considering that plaintiff-appellant failed to prove her cause by preponderant evidence.

WHEREFORE, in view of the foregoing, the Appeal is DENIED. The Decision dated December 29, 2009 of the Regional Trial Court, Sixth (6th) Judicial Region, Branch 8, Kalibo, Aklan in Civil Case No. 7417 is hereby AFFIRMED.

SO ORDERED.

Delos Santos, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 23-45.

[2] Records, pp. 166-171.

[3] See Complaint, paragraph 3, records, p. 2.

[4] Records, pp. 2-7.

[5] Records, p. 9; see also Exhibit "J", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[6] Records, p. 10; see also Exhibit "A", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[7] Spelled as Aristoteles Sardina in some documents.

[8] Records, p. 11; see also Exhibit "B", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[9] Records, p. 13; see also Exhibit "G", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[10] Records, p. 14; see also Exhibit "K", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[11] Records, p. 17; see also Exhibit "I", records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[12] See Answer with Compulsory Counterclaim, records, pp. 22-28.

[13] Records, pp. 63-64.

[14] Records, pp. 166-171.

[15] Records, p. 171.

[16] Records, pp. 173-178.

[17] Records, p. 183.

[18] Spouses Ramos v. Obispo, G.R. No. 193804, February 27, 2013, citing Heirs of Pedro De Guzman v. Perona,

G.R. No. 152266, July 2, 2010, 622 SCRA 653, 661-662, citing *Gajudo v. Traders Royal Bank*, G.R. No. 151098, March 21, 2006, 485 SCRA 108, 119-120.

[19] *Spouses Ramos v. Obispo*, G.R. No. 193804, February 27, 2013, citing *Chua v. Westmont Bank*, G.R. No. 182650, February 27, 2012, 667 SCRA 56, 68, citing *Eulogio v. Apeles*, G.R. No. 167884, January 20, 2009, 576 SCRA 561, 571-572.

[20] *Duran v. Court of Appeals*, G.R. No. 125256, May 2, 2006, citing *Roca v. Court of Appeals*, G.R. No. 114917, January 29, 2001, 350 SCRA 414.

[21] TSN dated September 6, 2005, pp. 7-8.

[22] TSN dated September 6, 2005, p. 10.

[23] TSN dated September 20, 2005, pp. 6-7.

[24] TSN dated September 20, 2005, p. 12.

[25] TSN dated October 4, 2005, pp. 7-8.

[26] Records, p. 34.

[27] *Rodriguez v. Salvador*, G.R. No. 171972, June 8, 2011, citing *Soliman v. Pampanga Sugar Development Company (PASUDECO), Inc.*, G.R. No. 169589, June 16, 2009, 589 SCRA 236, 246.

[28] See *Fernandez v. Tarun*, G.R. No. 143868, November 14, 2002.

[29] See Exhibit “8” and Exhibit “R”, records (Inside the envelope marked as Documentary Exhibits of the Plaintiff and Defendants in Civil Case No. 7417).

[30] G.R. No. 10432, November 4, 1916.

[31] G.R. No. L-66101 November 21, 1984.

[32] See RTC Decision, records, p. 170.

[33] See Merriam-Webster Dictionary or

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