

**MAXIMINO B. VALERA AND LIDOVINA VALERA SENEN,
PLAINTIFFS-APPELLEES, VS. CESAR LOPEZ,
DEFENDANT-APPELLANT.**

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

This treats of an appeal[1] from the Decision dated June 5, 2008[2] in Civil Case No. 1266 (For: "Ownership of, and Quieting of Title to, Real Estate With Damages") of Branch 2, Regional Trial Court, Bangued, Abra declaring plaintiffs-appellees as the lawful owners of the subject property and ordering defendant-appellant to pay plaintiffs-appellees Php50,000.00 as actual damages, plus legal interest.

THE ANTECEDENTS

Plaintiff-appellee Maximino B. Valera, plaintiff-appellee Lidovina Valera Senen and Paz B. Valera are siblings. They acquired from their deceased mother, Consolacion B. Valera, Lots Nos. 9989 and 9987 with a total area of 2,664 square meters, more or less, situated at Poblacion, La Paz, Abra. Paz B. Valera went abroad in 1974 and ceded all her rights over Lots Nos. 9989 and 9987 in favor of plaintiffs-appellees.[3]

In 1993, defendant-appellant Cesar Lopez entered the northeastern portion of Lot No. 9989, demolished plaintiffs-appellees' residential house with a floor area of 80 square meters and built his own house thereon.[4] Defendant-appellant claims that he bought the property from Apolinario Adres pursuant to an "Absolute Sale of Real Estate" executed on March 11, 1992.[5] Defendant-appellant proceeded with the construction of his house and occupied the same despite plaintiffs-appellees' demand for him to vacate the premises.[6]

On May 30, 1994, plaintiffs-appellees filed with the trial court a complaint[7] against defendant-appellant for "Ownership of, and Quieting of Title to, Real Estate With Damages" alleging, among others, that (i) plaintiffs-appellees inherited Lot No. 9987-A and a residential house with a floor area of 59 square meters from their deceased mother, Consolacion B. Valera; (ii) in 1993, defendant-appellant entered the northeastern portion of Lot No. 9987-A, dismantled plaintiffs-appellees' house and built his own house thereon; (iii) plaintiffs-appellees demanded defendant-appellant to vacate the property, but the latter ignored their demand; and, (iv) defendant-appellant's unlawful acts prejudiced plaintiffs-appellees' ownership over their property. Plaintiffs-appellees prayed for payment of Php50,000.00 representing the value of the house which defendant-appellant demolished, Php30,000.00 as attorney's fees, moral damages and exemplary damages.

On May 21, 1994, defendant-appellant filed his answer[8] alleging, among others, that (i) defendant-appellant owned a residential lot located at Poblacion, La Paz, Abra and bounded on the South by Lot No. 9987; (ii) defendant-appellant bought said property from Apolinario Adres; (iii) defendant-appellant and his predecessors-in-interest had occupied the property for 30 years; and, (iv) the complaint lacked cause of action because defendant-appellant did not encroach Lot No. 9987-A. Defendant-appellant prayed that plaintiffs-appellees be ordered to pay him Php50,000.00 as moral damages, Php10,000.00 as actual damages and Php20,000.00 as exemplary damages.

On June 27, 1994, plaintiffs-appellees filed with the trial court an amended complaint[9] changing the technical description of the property. On August 25, 1994, defendant-appellant filed "Answer to the Amended Complaint,"[10] further alleging that (i) Lot No. 9989 was "cadastrally surveyed" in the name of Apolinario Adres; (ii) plaintiffs-appellees never occupied Lot No. 9989; (iii) estoppel, laches and prescription had set in; and, (iv) the land claimed by plaintiffs-appellees was different because defendant-appellant's land had different boundaries.

Pre-trial was conducted. In a pre-trial Order dated October 11, 1994,[11] the trial court summarized what transpired as follows:

Parties agreed as to their identities and capacity to sue and be sued and the triable issues in this case are the following:

1. Whether the land claimed by the defendant was legally sold to him by Apolinario Adres which sale even if true as claimed by the plaintiffs is spurious as he is not the original owner of this property but the mother of the plaintiffs, Consolacion Valera.
2. Whether the house that was demolished by the defendant is owned by the vendor Apolinario Adres or Consolacion Valera to justify the claim for damages by the plaintiffs.
3. Whether or not Lot 9989 was formerly a part of the original land owned by Consolacion Valera or is a separate adjoining property.

During the trial, plaintiff-appellee Maximino B. Valera[12] was presented as witness. Plaintiffs-appellees presented documentary evidence consisting of tax declarations dating back in 1948, and tax receipts, among others.[13]

On the other hand, defendant-appellant Cesar Lopez[14] and Amante Adres[15] were presented as witnesses. Defendant-appellant's documentary evidence consisted of tax declarations dating back in 1968, "Absolute Sale of Real Estate" dated March 11, 1992 executed between defendant-appellant and Apolinario Adres, and tax receipts, among others.[16]

On June 5, 2008, the trial court rendered a Decision[17] declaring plaintiffs-appellees as the lawful owners of subject property, and ordering defendant-appellant to pay plaintiffs-appellees Php50,000.00 as actual damages, with legal interest. Thus:

WHEREFORE, judgment is rendered declaring plaintiffs as the lawful owners of the properties described in Par. 2 (A) and (B) of the amended complaint and ordering the defendant to pay the plaintiffs the sum of P50,000.00 as actual damages of the house he demolished with legal interests.

SO ORDERED.[18]

Hence, defendant-appellant filed the present appeal which is premised on the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN RULING THAT THE PLAINTIFFS-APPELLEES WERE THE OWNERS OF THE SUBJECT PROPERTY.

II

THE TRIAL COURT GRAVELY ERRED IN AWARDING ACTUAL DAMAGES.[19]

THE ISSUE

Whether the trial court erred in declaring plaintiffs-appellees as the lawful owners of subject property, and in ordering defendant-appellant to pay plaintiffs-appellees Php50,000.00 as actual damages, with legal interest.

THE COURT'S RULING

In its Decision dated June 5, 2008, the trial court held that plaintiffs-appellees were able to prove their claim of ownership over the disputed property, as it gave weight and credence to plaintiffs-appellees' evidence which included the tax declaration issued in the name of their mother in 1948, as compared to defendant-appellant's tax declaration issued in the name of Apolinario Adres in 1968, or twenty years later. The trial court further noted the perjured statement of Apolinario Adres in view of the material contradictions between his affidavit stating that the land in dispute was his share in the property of his parents, and his claim in the "Absolute Sale of Real Estate" dated March 11, 1992 that he "acquired it from Paz Valera".

Defendant-appellant faults the trial court in so ruling, as he contends that (i) both parties had no title to prove their respective claims over the disputed lot; (ii) plaintiffs-appellees' claim that Paz B. Valera ceded to plaintiffs-appellees her interest over the property was not reduced to writing; (iii) defendant-appellant had a deed of sale which was confirmed by Amante Adres; (iv) the present controversy was a case of double sale as the disputed property was first sold to plaintiffs-appellees, then later to defendant-appellant; (v) defendant-appellant bought the property from Apolinario Adres and had been in possession thereof for more than 30 years; and, (vi) the trial court did not explain how it arrived at the Php50,000.00 actual damages as there were no receipts presented.[20]

It is axiomatic that each party must prove his own affirmative allegation; one who asserts the affirmative of the issue has the burden of presenting at the trial such amount of evidence required by law to obtain a favorable judgment which, in civil cases, is by preponderance of evidence.[21] By preponderance of evidence is meant that the evidence adduced by one side is, as a whole, superior to that of the other side. Essentially, preponderance of evidence refers to the comparative weight of the evidence presented by the opposing parties.[22]

The amended complaint prayed for quieting of title over the subject property. Pertinent provisions of Article 476, New Civil Code read:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

In *Heirs of Toring vs. Heirs of Boquilaga*,[23] the task of the trial court in an action for quieting of title was explained as follows:

In such action, the competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper places, and to make the claimant, who has no rights to said immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce the improvements he may desire, as well as use, and even abuse the property as he deems fit.

Both parties presented tax declarations to bolster their respective claims of ownership over the land in dispute. Plaintiffs-appellees presented Tax Declaration No. 8265[24] issued in 1948 in the name of their mother

Consolacion Valera. For his part, defendant-appellant presented Tax Declaration No. 15733[25] issued only in 1968 (or 20 years later) in the name of Apolinario Adres. Details of the tax declarations are as follows:

For plaintiffs-appellees:

Tax Declaration No.

Date of Issuance

Declarant

8265

1948

Consolacion Valera

13811

1970

Liduvina V. Senen

14798

1982

Lidovina Senen

1413

1985

- do -

664

1985

- do -

11392

1988

- do -

849

1994

- do -

For defendant-appellant:

Tax Declaration No.

Date of Issuance

Declarant

15733

1968

Apolinario Adres

92

1980

- do -

93

1980

- do -

12117

1992

Caesar Lopez (sic)

841

1994

- do -

Notably, plaintiffs-appellees' earlier tax declaration becomes prima facie evidence of ownership in their favor. While it is true that a tax declaration is merely indicium of a claim of ownership, tax declaration becomes prima facie evidence of ownership where a party is unable to produce any shred of document as evidence of said party's claim. As held:

xxx [J]urisprudence is replete with cases where the Court has stated that ownership and possession are established by a Certificate of Title and, in its absence, by a Tax Declaration. Admittedly, it is well-settled that tax declarations and receipts are not conclusive evidence of ownership, or of the right to possess land, in the absence of any other strong evidence to support them. "The tax receipts and declarations are merely indicia of a claim of ownership." However, in the case before us where respondent is unable to produce any shred of document as evidence of her claim, the tax declaration becomes prima facie evidence of ownership in favor of petitioners. "Tax receipts and [tax] declarations are prima facie proof of ownership or possession of the property for which such taxes have been paid." The established fact that the tax declaration was issued as early as 1988 in the name of Mary, and has not been transferred to anyone else since its issuance tilts the balance in favor of petitioners. Petitioners' payment of real property taxes only on August 11, 1997, or a month before the respondent filed her complaint in court, should have no bearing on the question of ownership over the old house. xxx[26]

The alleged sale of the property by Apolinario Adres to defendant-appellant by virtue of the purported "Absolute Sale of Real Estate" dated March 11, 1992[27], has no leg to stand. As the trial court observed, there were unexplained material discrepancies in Apolinario Adres' declaration in the "Absolute Sale of Real Estate" dated March 11, 1992 and the statement in his affidavit dated March 7, 1977[28]. Pertinent portions thereof read:

"Absolute Sale of Real Estate" dated March 11, 1992

xxx xxx xxx

That I, Apolinario Adres xxx sell xxx unto said Caesar Lopez (sic) xxx the following REAL ESTATE:

Residential Lot located at Poblacion, La Paz, Abra, bounded on the North by Street; on the South by Venny Valera; on the East by Street; and on the West by Maximino Valera, with an area of 280.5 sq. Meters, covered by Tax Dec. No. 92

This sale includes the old residential house that is found in the above residential lot that is sold to the above Vendee, Caesar Lopez (sic)

I am the owner in fee simple absolute of the above estate/s having been in my possession actually, adversely, peacefully and continuously as owner openly and against the whole world for more than 30 years including that of my predecessors-in-interests, the same having been acquired by me from Miss Paz Valera.

xxx xxx xxx (emphasis supplied)

Affidavit dated March 7, 1977

xxx xxx xxx

That I, APOLINARIO ADRES, xxx

That I am the owner of the following REAL ESTATE which is more particularly described and bounded as follows:

Residential lot Poblacion, La Paz, Abra; bounded on the North by Street; on the East by Street; on the South by Venny Valera; on the West by Maximino Valera; sketch map of the lot is seen at back hereof and is an integral part of his Affidavit. A house is constructed therein with a ground floor area of 80 square meters; wooden post on the 1st floor; sooden (sic) and bury leaves on the wnd floor (sic); with G.I. Roofings.

xxx xxx xxx

That I am the present and actual possessor over the same having been in possession peacefully and continuously as owner for more than 30 years including that of my predecessors in interests the same having been my share among the properties of my parents; free from all liens and encumbrances whatsoever;

xxx xxx xxx (emphasis supplied)

Thus, the trial court cannot be faulted in removing the cloud over the title of plaintiffs-appellees. As the trial court correctly noted:

Both parties claim ownership over the same piece of land as "proof" thereto, present tax declaration over the property.

xxx xxx xxx

Both parties have no documentary evidence to prove original ownership. Plaintiffs claim that they inherited it from their mother whose tax declaration, Exh. "A" dates back in 1948. Upon the other hand, the tax declaration of original owner Apolinario Adres started in 1968;

Following the reasoning in the cited jurisprudence, the indicium of ownership of Consolacion Valera is earlier by twenty years than that of Apolinario Adres.

Likewise, and more importantly, in his affidavit supporting his claim that the property be declared for taxation in his name, Apolinario claim that "the same having been my share among the properties of my parents" as gleaned from Exhibit "1".

Yet in Exh. "J", the sale between Apolinario Adres and defendant Cesar Lopez, (Exh. "4" of defense) it is stated that Apolinario Adres "acquired it from Paz Valera".

It is thus clear that Apolinario Adres perjured his statement in support of his claim to the property in question.[29]

However, the trial court erred in awarding plaintiffs-appellees the amount of Php50,000.00 as actual damages, despite absence of competent proof to support said amount. Jurisprudence teaches that:

xxx For damages to be recovered, the best evidence obtainable by the injured party must be presented. Actual or compensatory damages cannot be presumed, but must be proved with reasonable degree of certainty. The Court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered and on evidence of the actual amount. If the proof is flimsy and unsubstantial, no damages will be awarded.[30]

There was no explanation whatsoever in the trial court's Decision on how it arrived at the amount Php50,000.00. Records only bear that plaintiffs-appellees simply "estimated"[31] the value of the house that was allegedly demolished when plaintiff-appellee Maximino B. Valera testified as follows. Thus:

Q When you found out that that (sic) house of your parents was demolished by Mr. Lopez what did you do if there was any?

A I asked Mr. Lopez why he demolished the house and even told him that that is a part of our property.

Q What did Mr. Lopez say to you?

A He told me that he owns that lot because he purchased it, sir.

xxx xxx xxx

Q Do you know what is the value of that house of your parents that was demolished by Mr. Lopez?

A It is estimated as P50,000.00 now because woods that were used in that house were big.

Nonetheless, defendant-appellant admitted in his testimony that he demolished the old house on Lot No. 9989 and constructed a new house on the same area where the old house used to stand. Defendant-appellant testified:

Q After buying the house and lot from Adres what did you do with the lot?

A I occupied the land physically after I have fixed the house xxx.

xxx xxx xxx

Q What did you do with the house?

A I demolished, sir.

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Q And after demolishing it?

A Then I put up a new house in replacement.

Q Is it in the same area wherein you built your new house? where the (sic) old house was built?

A Yes, sir.[32]

Defendant-appellant should, therefore, be held liable to pay plaintiffs-appellees temperate damages as the latter undoubtedly suffered pecuniary loss brought about by the demolition of their old house. As there was no proof

capable of ascertaining the actual loss suffered by plaintiffs-appellees for the demolition of their house, in lieu of actual damages, the Court finds the amount of Php30,000.00 by way of temperate damages as just and reasonable. As held:

Nonetheless, absent competent proof on the actual damages suffered, a party still has the option of claiming temperate damages, which may be allowed in cases where, from the nature of the case, definite proof of pecuniary loss cannot be adduced although the court is convinced that the aggrieved party suffered some pecuniary loss. As defined in Article 2224 of the Civil Code:

Article 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty.[33]

Moreover, pursuant to prevailing jurisprudence, legal interest of six per cent (6%) shall be imposed on the damages sustained by plaintiffs-appellees from the finality of judgment until its full satisfaction. As held:

Thus, from the foregoing, in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments xxx will now be six percent (6%) per annum effective July 1, 2013. It should be noted, nonetheless, that the new rate could only be applied prospectively and not retroactively. xxx Come July 1, 2013 the new rate of six percent (6%) per annum shall be the prevailing rate of interest when applicable.[34]

WHEREFORE, the trial court's Decision dated June 5, 2008 is affirmed, subject to modification that the award of actual damages is deleted and defendant-appellant is ordered to pay plaintiffs-appellees Php30,000.00 as temperate damages, plus legal interest of 6% from finality of judgment until its full satisfaction.

SO ORDERED.

Acosta, and Garcia-Fernandez, JJ., concur.

[1] pp. 33-38, Rollo

[2] pp. 216-220, Records

[3] pp. 15-16, Ibid.; p. 9, TSN dated June 20, 1995

[4] p. 16, Records

[5] p. 23, Ibid.

[6] p. 16, Ibid.

[7] pp. 1-3, Ibid.

[8] pp. 11-13, Ibid.

[9] pp. 15-17, Ibid.

[10] pp. 23-25, Ibid.

[11] p. 32, Ibid.

[12] pp. 3-12, TSN dated March 21, 1995; pp. 3-24, TSN dated June 20, 1995; pp. 2-8, TSN dated November 28, 1995; pp. 2-13, TSN dated January 30, 1996

[13] pp. 111-130, Records

[14] pp. 2-7, TSN dated March 4, 1997; pp. 9-13, TSN dated June 5, 1998; pp. 2-11, TSN dated August 19, 1997

[15] pp. 2-7, TSN dated July 17, 1998

[16] pp. 195-207, Records

[17] pp. 216-220, Ibid.

[18] p. 220, Ibid.

[19] p. 33, Rollo

[20] pp. 36-37, Ibid.

[21] ACE Foods Inc. vs. Micro Pacific Technologies Co., Ltd., G.R. No. 200602, December 11, 2013

[22] Republic of the Philippines vs. Bakunawa, 704 SCRA 163 [2013]

[23] 631 SCRA 278 [2010]

[24] Exhibit "A", p. 111, Records

[25] Exhibit "1", p. 195, Ibid.

[26] Spouses Guidangen vs. Wooden, 666 SCRA 119 [2012]

[27] p. 120, Records

[28] p. 119, Ibid.

[29] p. 44, Rollo

[30] Consolidated Industrial Gases, Inc. vs. Alabang Medical Center, 709 SCRA 409 [2013]

[31] p. 22, TSN dated June 20, 1995

[32] pp. 6-7, TSN dated August 19, 1997

[33] Tan vs. OMC Carriers, Inc., 639 SCRA 471 [2011]; See also Equitable PCI Bank vs. Tan, 628 SCRA 521 [2010]

[34] Nacar vs. Gallery Frames, 703 SCRA 439 [2013]; See also Eastern Shipping Lines, Inc. vs. Court of Appeals, 234 SCRA 78 [1994]

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