

RUFINO ALVERO, PEDRO ALVERO, FORTUNATA ALVERO-RAMIREZ AND EUSTAQUIO BAYOT, PETITIONERS, VS. MARIANO REAS AND PAULA VDA. DE ALVERO, RESPONDENTS.*G.R. No. L-28337. September 30, 1970*

Ponente: REYES, J. B. L., Acting C.J.

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REYES, J. B. L., Acting C.J.:

Petitioners seek the review and reversal of the decision of the Court of Appeals, in its Case CA-GR No. 32290-R, reversing the one rendered in their favor by the Court of First Instance of Leyte in Civil Case No. 2729.

On 12 February 1960, petitioners commenced a suit in the court of origin, seeking to quiet title to a parcel of land in Nalibunan, Abuyog, Leyte, described in the complaint and covered by Tax Declaration No. 565; to recover the same from private respondents herein and to collect damages. From the pleadings of the parties it can be gathered that both sides claim title from the late Cipriana Alvero; but while plaintiffs predicate their ownership as successors of Alejandra Alvero, who acquired the land from Cipriana by succession and purchase of the shares of her coheirs, defendants, in turn, asserted that four heirs of Cipriana Alvero, to wit, Rufino Alvero (one of plaintiffs), Alejandra Alvero, defendant Mariano Reas and Norberto Alvero (deceased husband of defendant Paula Vda. de Alvero) had verbally partitioned the land in question in 1938, the other heirs of Cipriana having received other properties; that each partitioner had since then possessed his respective share as exclusive owner, the oral partition having been ratified in writing in 1949. Said defendants further pleaded title by adverse possession.

The Court of First Instance upheld the contentions of plaintiffs (petitioners in the case before us) because of a decision in favor of Cipriano Alvero, rendered by the Court of Land Registration in Tacloban, Leyte, in its Case No. 235, which decision was rendered on 21 June 1937, and of the sale by heirs of Cipriana of their interest in favor of coheir Alejandro Alvero, petitioners' predecessor. The Court adjudged petitioners to be the owners of the disputed land, and ordered defendants (now respondents) to restore possession and pay P20.00 a month until actual return of the land to plaintiffs, plus costs.

Upon appeal duly interposed, the Court of Appeals reversed the Court of First Instance on the basis that the decision in favor of Cipriana was not entered or transcribed in the manner provided in Section 41 of the Land Registration Act (Act 496) and no decree nor certificate of title was ever issued, hence Cipriana's title to the land did not become indefeasible or imprescriptible. Said the Court of Appeals:

"The decision in the land registration case (G. L. R. O. Record No. 51534) rendered on June 21, 1937 adjudicating the whole area in favor of Cipriana Alvero is unavailing. ----- Said decision lost its vigor and enforceability. Although it became final, the same was not executed. There was no final decree entered neither a certificate of title issued thereunder. It is nothing but a statement of the facts of the case and the law applicable thereto.[1] ----- Inasmuch as the time within which it could have been enforced had long expired 'the judgment is not merely dormant but dead.' ----- It did never toll or suspend the running of the prescriptive period. In computing the period of adverse possession of land, the time of pendency of any abandoned, or otherwise discontinued action in respect thereto is to be treated as though such action had never

been ins-tituted.[3] -----“

With respect to the second issue of prescription, the Court of Appeals found that -

"Defendants-appellants have proven preponderantly that they have been in actual, open, public, continuous possession under claim of exclusive ownership over the land in question for more than 10 years before the instant suit was lodged in the court below. Such possession has ripened into ownership by and through prescription." [4]

In arriving at the aforesaid conclusion, the Appellate Court observed that plaintiffs' cause of action commenced to run from 1940 upon the death of Alejandra Alvero from whom plaintiffs Eustaquio Bayot and Fortunata Alvero-Ramirez derived their title of ownership to the land.[5] It found proved that after the death of Alejandra, the persons "who appeared to have taken possession of the land" left by her were Rufino Alvero, Norberto Alvero and Mariano Reas. Eustaquio Bayot and Fortunata Alvero-Ramirez did not exercise any right of possession and ownership over their supposed shares.[6] It was likewise found that as early as 1948, Norberto Alvero leased his share in the partition to third persons where a sawmill and lumberyard were installed. Rufino Alvero, plaintiff-appellee, was an instrumental witness to the lease contract.[7] On 12 October 1949, Mariano Reas, Norberto and Rufino Alvero ratified or confirmed in a public instrument their long time possession by partitioning the land among themselves into four (4) parts, with Rufino Alvero taking two shares. These portions were subsequently declared for taxation purposes and this fact was admitted by the plaintiffs in the complaint.[8] Rufino Alvero has been an occupant and possessor of his shares of the land (Lots 2 and 7, Exhibit "13").[9] When these lands were traversed by municipal roads later, it was to these persons, among others as recognized owners, that com-pensation was paid for the right-of-way secured by the Municipal Government.

Plaintiffs-petitioners do not question in this instance the correctness of the finding of the Court of Appeals that the decision in favor of their predecessor, Cipriana Alvero, albeit rendered in a land registration case, acquired no greater force than an ordinary judgment and could be defeated by prescription. That in the absence of proper entry of judgment and a decree of registration the land involved did not become registered land, is clear from the provisions of sections 41, 45 and 46 of the Land Registration law (Act 496). But petitioners vigorously challenge the holding that the defendant acquired ownership by adverse possession.

The findings of the Court of Appeals upon this issue, that de-fendants ever since 1949 held the land as exclusive owners, and exercised acts of dominion thereon, while petitioners never had possession thereof, are findings of fact that are binding upon this Court, whose jurisdiction in this class of cases is limited to reviewing errors of law.

Under Article 1116 of the New Civil Code, prescription already running before the effectivity of this Code shall be governed by the laws previously in force. In this particular case, the law applicable is the Code of Civil Procedure, specifically Sections 40 and 41 thereof. The Court of Appeals having ruled that defendants-appellants had been in possession of the land adversely, continuously and in the concept of owners since 1949, at least, they have acquired title over the land through acquisitive prescription, pursuant to Section 41 which reads -

"Title to land by prescription. - Ten years actual adverse possession by any person claiming to be owner for that time of any land or interest in land, uninterruptedly continued for ten years by occupancy, descent, grants, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual occupant or possessor of such land a full and complete title, saving to the person under disabilities the rights secured by the next section. In order to constitute such title by prescription or adverse possession, the possession by the claimant or by the person under or through whom he claims must be actual, open, public, continuous, under a claim of title exclusive of any other right and adverse to all other claimants"
." [10]

Prescription lies under the said section even in the absence of good faith and just title.

As regards the contention that Mariano Reas could not acquire a portion of the property covered by Tax Declaration No. 11592 (Exhibit "H") for the reason that he was merely an administrator thereof, the Court of Appeals ruled that "we find the same both factually and legally impossible" (Resolution on Motion to Reconsider, Annex "C" of Petition, page 7); and added -

"But under the circumstances, such relationship had been repudiated long ago by Mariano Reas. He was in exclusive possession of the land in the concept of an owner as previously shown. No fruit nor moiety of the produce of the land was given to anyone who claimed to have appointed him to administer the property consisting of only 1926 hectare of land - - - - -."[11]

The Court went on further to say that if an administrator repudiates his representative capacity, at least in so far as the land in dispute is concerned, and sets up an independent, exclusive, and hostile right in himself, openly and notoriously, his possession may become adverse to the heirs or devisees of the estate, providing, of course, that they are under no disability,[12] and it found plaintiffs-appellees Eustaquio Bayot and Fortunata Alvero-Ramirez to be under no disability.

Thus, the decision of the trial court was reversed by the Court of Appeals and the complaint was dismissed. A motion for reconsideration was filed by the plaintiffs but the same was denied in a Resolution dated 9 November 1967. The dispositive portion reads -

"PREMISES CONSIDERED, we are of the considered view that, while we do not agree with the original findings of this Court that appellants have been in the adverse possession of the land in question even before 1937 when the said land was the subject of a decision in a land registration case, we still find that the action of plaintiffs-appellees, as held in the previous decision of this Court, has long prescribed and that appellants have acquired ownership of the land in question by acquisitive prescription, having been in adverse possession of the same for more than ten (10) years. The motion for reconsideration is hereby denied.[13]

The facts and the law on which the decision is based have been clearly and distinctly set forth. The findings, of facts are supported by substantial evidence. The extra-judicial partition of 12 October 1949 can hardly be disputed. It was alleged in the complaint[14] and, therefore, admitted as such.[15] The admission of its existence, although the partition is branded as unlawful, binds the petitioners in so far as their knowledge of the same is concerned. It was precisely that knowledge which made them file the action to quiet the title to, and be declared as sole and exclusive owners of the land described in the complaint.

It is contended by the petitioners that they discovered this parti-tion, and specifically the perfidy of administrator Mariano Reas, only in February, 1960 as a result of which the complaint was filed on 12 February 1960. But as the Court of Appeals correctly found, this is belied by the fact that Rufino Alvero, who is one of petitioners--plaintiffs, was even a party and signatory to the 12 October 1949 extra-judicial partition. The requisites for acquisitive prescription under Section 41, Act 190, were found to have been complied with when the Court of Appeals concluded that "defendants-appellants have proven preponderantly that they have been in actual, open, public, continuous possession under claim of exclusive title of ownership over the land in question for more than 10 years before the instant suit was lodged - - - - -. Such possession has ripened into ownership by and through prescription."[16]

Section 41, Act 190, makes it clear that the ten-year prescriptive period may be had "in whatever way such occupancy may have commenced or continued". Hence, even if appellants should have sold a piece of the land previously, such sale will not bar their right to set up adverse possession for themselves over the same property partitioned by them later as long as the conditions specified in Section 41 are shown to exist. These conditions

were found by the Appellate Court to have been complied with.

Petitioners further claim that certain exhibits have been tampered with or falsified. In effect, this Court is urged to examine and weigh the documentary evidence presented by the parties. In *Santa Ana, Jr., vs. Hernandez*,^[17] it was held by this Court that the credibility of witnesses and the weighing of conflicting evidence are matters within the exclusive authority of the Court of Appeals, and it is not necessarily bound by the conclusions of the trial court. The decision went further to state that barring a showing that the findings complained of are totally devoid of support in the record, or that they are so glaringly erroneous as to constitute a serious abuse of discretion, such findings must stand, for the Supreme Court is not expected or required to examine and contrast the oral and documentary evidence submitted by the parties. The law creating the Court of Appeals was intended mainly to take away from the Supreme Court the work of examining the evidence and confine its task for the determination of questions which do not call for the reading and study of transcripts containing the testimony of witnesses. In *Fortus vs. Novero*,^[18] it was likewise ruled by the Supreme Court that where the query necessarily invites calibration of the whole evidence, considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation, the question must be factual for the Appeals Court to solve.

FOR THE FOREGOING REASONS, the herein petition for certiorari is denied. The decision of the Court of Appeals and its Resolution denying petitioners' motion for reconsideration are hereby affirmed. With costs against petitioners.

Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Citing *De Los Reyes vs. De Villa*, 48 Phil. 22.

[2] Citing 50 C. J. S. 422.

[3] Citing *Arboso vs. Andrade*, 87 Phil. 782, 785-786.

[4] Page 20, Decision.

[5] Citing Article 1150 of the New Civil Code which reads ?

"The time for prescription for all kinds of actions, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought."

[6] Emphasis supplied.

[7] Exhibit "2", pages 13-14, Decision.

[8] Paragraph 6, *infra*.

[9] Page 15, Decision.

[10] Emphasis supplied.

[11] Emphasis supplied.

[12] Citing 1 Am. Jur. 863; See also Section 42, Act 190, which provides –

"Exceptions in favor of persons under disability. If a person entitled to bring the action mentioned in the preceding sections of this chapter is, at the time the cause of action accrues, within the age of minority, of unsound mind, or in prison, such person may after the expiration of ten years from the time the cause of action

accrues, bring such action within three years after such disability is removed.

[13] Emphasis supplied.

[14] Paragraph 6 of the complaint reads –

"That on October 12, 1949, the defendant Mariano Reas and the late husband, Norberto Alvero, of the other defendant Paula Vda. de Alvero, in unlawful understanding with others, executed an extra-judicial partition of one hectare of the land afore-mentioned, and adjudicated to each of them 1/4 of said portion; and subsequently, they declared for taxation purposes said portions in their names under Tax Declarations Nos. 11592, 11593, 11594 and 11595."

[15] *Cunanan vs. Amparo*, 80 Phil. 227, citing *McDaniel vs. Apacible*, 44 Phil. 248.

[16] Page 20, Decision.

[17] L-16394, 17 December 1966, 18 SCRA 973.

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