

BASILIO PEREZ AND PETRA MONTALBO, PETITIONERS VS. NICOLAS MENDOZA, MARGARITA MACALALAD AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-22006. July 28, 1975

Ponente: MUNOZ PALMA, J.

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MUNOZ PALMA, J.:

Civil Case 689 of the Court of First Instance of Batangas was an action to quiet title over a piece of land filed on March 20, 1959, by spouses Basilio Perez and Petra Montalbo with spouses Nicolas Mendoza and Margarita Macalalad as defendants. According to the complaint, the land in controversy is located in barrio Dagatan, municipality of Taysan, Batangas, with an area of approximately 4,765 sq. meters, declared for taxation purposes in the name of the "Heirs of Estanislao Montalbo", and is "bounded on the north by a school site, on the east by Calixto Flores, on the south by a creek, and on the west by a creek and the land of Gregorio Mendoza." On the basis of the evidence adduced by the parties, the trial court then presided by Hon. Lorenzo Relova rendered judgment on February 19, 1962, dismissing the complaint and declaring the spouses Mendoza "to have a better right to the property in question." [1]

Spouses Perez elevated the Relova decision to the Court of Appeals which, however, affirmed in toto the findings of the court a quo, and declared that "upon the evidence it has been shown by a great preponderance that the land in question belongs to the defendants." [2]

The case is now before Us on a petition for certiorari filed by spouses Perez.

The findings of fact both of the trial court and the Court of Appeals may be briefly summarized as follows:

The litigated parcel of land was originally part of a bigger tract owned by Estanislao Montalbo. When Estanislao died in 1918, his properties passed on to his children Petra, Felisa, and Pedro all surnamed Montalbo, and because Pedro died single the two women remained as the only heirs. By mutual agreement Petra and Felisa divided between themselves the lands of their father and the parcel of which the litigated land was a part was assigned to Felisa. Sometime in 1922 Felisa exchanged the above-mentioned parcel with a land belonging to her aunt, Andrea Montalbo, a sister of her father. The reason for the exchange was that Andrea wanted to donate a piece of land to the municipality for use as a school site and the land of Felisa was what the municipality preferred as it was adjacent to other properties of the municipality. (Exh. 5 for defendants Mendoza) Upon her acquisition of Felisa's aforementioned land, Andrea donated to the municipality the northern portion thereof which constituted almost one-half of the entire parcel, and since then that portion was declared for taxation purposes by the municipality together with its adjoining properties (Exhs. 6, 6-A, 6-B). In 1927 the remainder of the lot was given by Andrea Montalbo to her daughter Margarita Macalalad on the occasion of her marriage to Nicolas Mendoza, and from the time of their marriage the couple possessed the said property. That donation was confirmed subsequently in a public instrument dated August 15, 1951 (Exh. 2 for the Mendozas). Nicolas Mendoza sought to transfer the tax declaration of the property to his name and of his wife and for that purpose he submitted a deed of exchange of

property dated January 14, 1922, allegedly executed by Felisa Montalbo and Andrea Montalbo in the presence of the municipal secretary Rafael Manahan (Exh. 5). When Basilio Perez came to know about the supposed deed of exchange, he had it investigated and upon discovering that the signature of Rafael Manahan appearing on the document was forged, he filed a criminal complaint before the Fiscal's office which led to an accusation for falsification of private document against Andrea Montalbo and Nicolas Mendoza. Only Nicolas Mendoza was arraigned and tried and was convicted by the Court of First Instance of Batangas, but on appeal he was acquitted by the Court of Appeals for insufficiency of evidence to show that he participated in affixing the signature of Rafael Manahan or that he was aware of the falsity of the document in question when he presented it to the tax assessor's office.[3] Notwithstanding the forged signature of Rafael Manahan on the document Exhibit 5, there is sufficient evidence to prove that an exchange of property did in fact occur in 1922 between Andrea and Felisa Montalbo, and that Felisa's land passed on to Andrea who in turn gave part of it to the municipality and part to her daughter, Margarita; hence, the decision in favor of the spouses Mendoza.

On the other hand, petitioners contend that the disputed property was inherited by Petra and Felisa Montalbo from their father Estanislao who died in 1918 and since that date the two sisters were in possession of said land. In 1934 a deed of partition of the various properties of Estanislao was executed between Petra and the heirs of Felisa, and the land in question was divided equally between them; among those who signed as witnesses to that agreement was Andrea Montalbo (Exh. D for petitioners). In 1952 Felisa's husband, Jose Ortega, and children sold their one-half share to spouses Petra Montalbo and Basilio Perez, now petitioners, but the deed of sale was lost a year after. Sometime in 1946 petitioners leased the property to the Mendozas and when the lease expired in 1951 they demanded for the return of the land but the Mendozas refused and so petitioners had to file an ejectment suit before the justice of the peace court of Taysan which was still pending at the time of the trial of the civil case in 1960. (tsn. witness Basilio Perez, December 15, 1960, pp. 16-34)

For not giving credit to the foregoing evidence, petitioners now assail the adverse decision of respondent court on four assigned errors.

1. Petitioners contend that respondent court erred in considering the criminal case for falsification *res adjudicata* on the matter of ownership of the land in litigation when the "question of ownership was not actually and directly in issue in the criminal case and the latter was not the proper vehicle for the determination of the ownership of the land." (p. 9, petitioners brief) Petitioners refer to portions in the decision of respondent court, viz:

"The land in question, together with that portion that was acquired by the municipality of Taysan, the identity of which is admitted by the parties, belonged to Felisa Montalbo, as held in the decision of the Court of Appeals, thus — 'The said parcel of land previously belonged to Felisa Montalbo (married to Jose Ortega), who inherited it from her deceased father, the aforesaid Estanislao Montalbo; and the land in question was donated propter nuptias by Andrea Montalbo to Margarita Macalalad and Nicolas Mendoza, the defendants, (Margarita Macalalad is the daughter of Andrea Montalbo) on the occasion of their marriage on February 27, 1927, as found and held in the decision of the Court of Appeals, thus - and this land was acquired by the donor (Andrea Montalbo) by means of a barter with her own parcel of land planted with bamboos and mango trees.

"Upon the basis of the findings of fact and conclusion arrived at in the decision of the Court of Appeals, it clearly appears that although the document of exchange of the lands was found to be falsified, nevertheless the Court found upon the facts as demonstrated by the evidence that the land in question 'previously belonged to Felisa Montalbo (married to Jose Ortega), who inherited it from her deceased father, the aforesaid Estanislao Montalbo . . . ; that said land was donated propter nuptias by Andrea Montalbo to the defendants on the occasion of their marriage on February 27, 1927; and that 'this land was acquired by the donor by means of a barter with her own parcel of land planted with bamboos and mango trees'. From the context of the decision the natural and logical inference is that factually the exchange of the lands had been consummated x x x" (Pp.6-7,

CA decision at pp. 20-21, rollo; italics supplied to indicate disputed statements)

Undoubtedly, there is merit to the contention of petitioners that the pronouncements or findings of fact made by the Court of Appeals in the criminal case concerning the possession and ownership of the land now in litigation in the civil case, do not constitute the law on the matter and cannot be taken or adopted as a basis for deciding the question of ownership of said land in this civil case. Since there is no identity of parties in the two cases — the petitioners here not being parties in the criminal case — and the object or subject matter in the criminal prosecution is different, the latter being concerned with the guilt or innocence of accused Nicolas Mendoza for falsification of private document, it follows that the judgment in the criminal action cannot be used as evidence in the civil case where the issue is ownership of a piece of land. It is the rule that the plea of *res judicata* generally cannot be interposed except where the parties, facts, and questions are the same,^[4] hence, the judgment in a criminal case cannot be pleaded as *res judicata* in a civil action.^{5[5]}

But whatever error was committed by respondent court in this regard, the same is not sufficient to nullify the appealed decision.

Analyzing the decision of respondent court, We see that the latter made its own appraisal and evaluation of the evidence existing in the record relative to the possession and ownership of the land in question. Thus it said that the conclusions arrived at by the Court of Appeals in the criminal case to wit (1) that there was an exchange of lands consummated between Andrea and Felisa and (2) that the exchanged land was later donated by Andrea to her daughter Margarita in 1927, "can hardly be doubted if we take account of the undisputed fact that the defendants have been in possession of the land since 1927, and the plaintiffs (meaning spouses Perez) have not attempted to disturb defendants' possession of the land until 1952 when said plaintiffs filed an action of unlawful detainer against the defendants." (p. 7, of appealed decision at p. 21, SC rollo; italics supplied) Continuing, respondent court expounded:

"Contrary to the allegation in the complaint — 'That plaintiffs were in possession of the land prior and up to January, 1946, when the same was leased to the defendants . . . , and the testimony of Basilio Perez to the same tenor, the evidence has conclusively shown that the defendants have been in continuous possession of the land since 1927 to the present time, and they have built a house on the land in 1928 where they have resided and lived to the present, as testified to by the defendant Mendoza,x x x.

"The plaintiffs have contended, however, with the support of the testimony of Basilio Perez, that the possession of the defendants since 1946 was that of a mere lessee of the land. On this matter, the trial court said, 'the records do not show any documentary evidence to support such contention. Nor is any document, say receipts of payment of rentals presented to bolster their theory. On the contrary their averment has been strongly denied by the defendants and the records show that it was only in 1952 that a civil action was instituted by the plaintiffs against the defendants in the Justice of the Peace Court of Taysan, Batangas, for detainer and damages', and said allegation of possession of the defendants as lessees of the land 'is not supported by positive and convincing evidence.' We find no reason to disagree with the foregoing findings of fact and conclusion of the trial court because the same is supported by the preponderance of evidence, and the plaintiffs have not pointed to us any fact of significance or influence which have been disregarded by the court, other than the testimony of Basilio Perez who testified about the supposed contract of lease." (pp. 21-22, 23, *ibid.*; italics supplied)

Digging further into the evidence of herein petitioners, respondent court found for itself that the agreement of partition dated May 27, 1934, Exhibit D, is not incontrovertible proof that in 1934 the litigated property belonged in common to Petra and the heirs of Felisa Montalbo both of whom may have been guided by the fact that the property was still declared for taxation purposes in the name of Estanislao Montalbo, and that the document of partition "did not overcome the evidence on record that Andrea Montalbo became the owner of the land, and that

since 1927 the defendants have been in continuous possession of the land, openly, adversely and in the concept of owners thereby acquiring ownership of the land through acquisitive prescription." (p. 10 of CA decision at p. 24, SC rollo)

Independently therefore of the pronouncements of the Court of Appeals in the criminal case, respondent court examined the evidence in this civil case and made its own findings of fact on the basis of which it affirmed the decision of the trial court.

We could have stopped here and resolved this petition under well-entrenched precepts in Philippine jurisprudence that findings of fact of the Court of Appeals are as a rule conclusive and binding upon this Court;^[6] nonetheless, to set our mind at rest that the conclusions of respondent court were not grounded on speculation, surmises or conjectures,^[7] We went over the evidence before Us.

Certain salient facts strongly support the claim of respondents Mendoza over the property in dispute:

First, the northern boundary of the land in controversy is undisputably a school site which originally was part of a bigger tract belonging to Estanislao Montalbo. This is admitted by petitioner Basilio Perez who to a question propounded by his counsel, Atty. Panganiban, declared:

"Mr. Panganiban: (Counsel of petitioners)

Q. According to these tax declarations which you said covers the land in question, the boundaries on the north, school site; on the east, land of Calixto Flores; on the south, estero; and on the west, estero and Gregoria Mendoza, why is it that there is a discrepancy?

A. Because from the whole parcel of land a portion was taken for the school site, and that which remains now is the land in question, sir." (tsn December 15, 1960, pp. 22-23)

No explanation however was offered by Perez as to how that portion became a school site. On the other hand, there is evidence of respondent Mendoza that because Andrea Montalbo wanted to donate a piece of land to be used as a school site and the municipality preferred the location of the land inherited by Felisa from her father, the two women exchanged lands after which Andrea gave one-half of the property to the municipality while the remaining portion which is the land now in litigation was donated propter nuptias to her daughter Margarita way back in 1927. (tsn October 24, 1961, pp. 14-18) This donation of Andrea was not disproved by any evidence of petitioners. On the part of respondents Mendoza, their documentary evidence, Exhibits 6, 6-A and 6-B, show that the municipality of Taysan declared the donated property in its name as early as July, 1925, which supports respondents' claim that the exchange of properties between Andrea and Felisa Montalbo took place sometime in 1922.

Second, the provincial authorities dealt with the Mendozas for the widening of the provincial road which traverses the land in question. Nicolas Mendoza testified that the land covered by the complaint actually consists of two lots which he described in his sketch, Exhibit 1, with letters "A" and "B" respectively, separated by a provincial road leading to the municipality of Lobo; that lot "A" which is the bigger parcel is the one donated to his wife, Margarita, by Andrea Montalbo on the occasion of their marriage in 1927 (Exh. 2); while lot "B" was bought from Donata Mendoza in 1951 as shown by the deed of sale, Exhibit 7; that sometime in 1937-38, the province widened the provincial road traversing the two lots, and he and his wife were approached by the provincial

authorities more particularly, Engineer Ramirez, for them to give without compensation from lot "A" a stretch of land of one meter in width to widen said road, and they agreed. At that time Donata Mendoza still owned lot "B" and she was also asked to give part of her land for the road but she was paid for the value of the plants destroyed in the process. (tsn October 24, 1961, pp. 32-34) For his part, petitioner Perez admitted during the cross-examination conducted by the opposite counsel, Atty. Julio Enriquez, that the provincial authorities did not deal with him at all during the widening of that particular road. (tsn September 25, 1961, p. 34) This is of marked significance, because if it were true as claimed by petitioners that they were in possession of the property since the death of Estanislao Montalbo in 1918 or even after the deed of partition in 1934, they would have been the persons approached by the authorities for the widening of the road. The fact that the Mendozas were the ones who gave away part of the land for the widening of the Lobo road shows that they were in possession of the property and were living there at the time.

Third, respondents Mendoza have, been in possession of the property since 1927 in concept of owners thereof. We have the testimony of respondent Nicolas Mendoza that after the land was donated to his wife in 1927 they built a house on it and lived there continuously, witness referring particularly to what he described as lot "A" in his sketch Exhibit 1. (tsn October 24, 1961, pp. 7, 30-31) Respondent's testimony was found both by the trial and appellate courts credible because (1) petitioner Basilio Perez himself admitted during cross-examination that even before the last world war the Mendozas had constructed a house on the land in litigation (tsn September 25, 1971, pp. 37-39; see Exh. E-3) which admission disproves the allegation in the complaint and Perez' testimony that it was only in 1946 when the Mendozas occupied the property as lessees; (2) the testimony of Nicolas Mendoza was corroborated by witness Adriano Gonzales, a retired justice of the peace of Taysan, Batangas, who declared that he knew the Mendozas since 1937 and he saw them living on the land in question and they have not changed residence at all since he had known them (tsn December 6, 1961, pp. 5-6); and (3) the respondents Mendoza were the ones who were living on the property and not the petitioners at the time the provincial government in 1937 widened the Lobo road which crosses said land.

The court a quo and the respondent appellate court did not err when they upheld the claim of ownership of the Mendozas principally on the ground that the latter were in actual possession of the property since 1927 and were sought to be dispossessed by petitioners herein only in 1952 when an ejectment suit was filed against them.

Possession is an indicium of ownership of the thing possessed and to the possessor goes the presumption that he holds the thing under a claim of ownership.[8] Article 433 of the Civil Code provides that "(A) actual possession under claim of ownership raises a disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property." In *Chan vs. Court of Appeals, et al*, L-27488, June 30, 1970, 33 SCRA 737, this Court upheld the finding of the Court of Appeals that the litigated property belonged to the private respondents therein based on their possession of the property, not only because such findings of fact of the appellate court are conclusive and binding on this Court but because the conclusion is in accordance with Articles 433 and 531 of the Civil Code.[9]

As we have here conflicting claims of possession by the parties over the land in controversy and because the fact of possession cannot be recognized at the same time in two different personalities except in cases of co-possession, the present possessor is to be preferred pursuant to Article 538 of the Civil Code which We quote:

"Possession as a fact cannot be recognized at the same time in two different personalities except in the cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred; if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings." [10]

The pretension of petitioners that the possession of the Mendozas is that of a mere lessee was not believed by the trial judge and the appellate court not only because of the absence of any written or oral evidence on the matter other than the bare testimony of petitioner Basilio Perez, but also due to the circumstances present in the case which We indicated and enumerated at pages 7 to 9 of this decision. In fine, it is a fact that the Mendozas are presently in possession of the property and the presumption of ownership in their favor has not been successfully rebutted by evidence that they are mere lessees of the land in their possession as claimed by petitioners.

2. In their second assigned error, petitioners contend that respondent court should not have given weight to the evidence of respondents Mendoza because the latter's Exhibit 5 was proven to be a falsified document.

To recall, Exhibit 5 is the alleged deed of exchange or barter of lands between Andrea and Felisa Montalbo dated January 14, 1922. On this point, petitioners overlook the fact that Exhibit 5 was made the basis of a criminal accusation of falsification of private document solely on the allegation that the signature of Rafael Manahan, the person before whom the parties to the document allegedly appeared, was not his. There was no finding in that criminal case as per decision rendered therein that the barter or exchange of lands between Andrea and Felisa Montalbo did not in effect take place. On the contrary, what appears in said decision offered by petitioners as their Exhibit J are the following findings of the Court of Appeals, viz: that the land donated by Andrea Montalbo to her daughter Margarita Macalalad "was acquired by the donor by means of a barter with her own parcel of land planted with bamboos and mango trees"; that while it is true that because of this presentation of the falsified document appellant (now respondent Nicolas Mendoza) was able to secure the declaration of the property donated in his name, no criminal liability should be imposed upon him in the absence of any evidence that he presented said exhibit with the knowledge that it was forged "especially if we take into consideration the fact that he and his wife were and are still in possession of the land donated since 1927"; that in fact, the color and appearance of the document in question show that it is not a new document but an old one thus confirming Mendoza's theory that it was executed in or about the year 1922 as appearing in the document or five years before his marriage. (pp. 1, 5, b of Exh. J, folder of exhibits) Thus, if the document Exhibit 5 was held to be forged, it was simply because the municipal secretary, Rafael Manahan, did not sign it and not for any other reason. What is material and relevant to the civil case is that both the trial court and respondent appellate court found for a fact that there was an exchange of lands between Andrea and Felisa Montalbo on the basis of evidence other than the disputed Exhibit 5. As to what that evidence is, has been discussed above.

Petitioners cite *Gonzalez vs. Mauricio*, 53 Phil. 728 where this Court stated inter alia that the introduction of a forged instrument by a witness renders the testimony of the latter practically worthless. That statement however is not applicable to the situation before Us because in *Gonzalez* the particular document or receipt referred to was found to be entirely false as to its contents, handwriting, and signature, whereas here all that was found to be false is the signature of a witnessing official.

3. The last argument of petitioners is the object of the third assigned error. It is contended that the appellate court erred in not giving effect to the deed of partition, Exhibit D, notwithstanding the fact that the name of Andrea Montalbo appears in the document as one of the witnesses thereto.

Exhibit D appears to be a document dated May 27, 1934, wherein certain properties allegedly belonging to Estanislao Montalbo were divided between Petra Montalbo, and Jose Ortega, husband of deceased Felisa Montalbo. Petitioner Basilio Perez declared that one of the parcels of land mentioned in the document is the land now in litigation which is particularly marked as Exhibit D-1. He also testified that Exhibit D was signed by him and his wife, Petra Montalbo, by Jose Ortega, husband of deceased Felisa Montalbo, and thumbmarked by the latter's children all in his presence. (tsn December 15, 1960, pp. 19-24) Surprisingly, however, Basilio Perez did not at all mention during the course of his testimony that the old woman, Andrea Montalbo, signed the deed of

partition as a witness. We have gone over the transcript of Basilio Perez' declaration on direct and cross-examination (tsn December 15, 1960, pp. 15-34; September 25, 1961, pp. 3-40) and at no instance did he ever state that Andrea Montalbo was present during the preparation of the document, that she read or knew the contents thereof which by the way consists of six handwritten pages, and that she signed her name on the document. It was incumbent upon petitioners to identify the signature of Andrea Montalbo on the document if her signature was truly there. As a matter of fact, examining the document. Exhibit D We entertain doubts whether the name referred to by petitioners is "Andrea Montalbo", for, as written, it also can read "Maria Montalbo". At any rate, whatever is the import of said deed of partition, the same binds only the parties thereto but does not affect third persons such as Andrea Montalbo or the herein Mendozas in the absence of proof that they participated in one way or another in the preparation and execution of the document. As it is, Andrea Montalbo was a stranger to that deed of partition and any recital therein concerning the property under litigation cannot be used as evidence to prejudice her and her successors-in-interest or place her in estoppel as to her claims over the property. *Res inter alios acta alteri nocere non debet*. A transaction between two parties ought not to operate to the prejudice of a third person or stranger.[11]

4. In the fourth assignment of error, petitioners claim that the appellate court should have rendered a decision in their favor. That both the trial court and respondent appellate court have correctly evaluated the evidence, has been clearly demonstrated by Us.

IN VIEW OF ALL THE ABOVE CONSIDERATIONS, We find no reversible error in the decision under review and We AFFIRM the same with costs against petitioners.

So ordered.

Castro, Chairman, Makasiar, Esguerra and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] Pp. 8-15, Record on Appeal, civil case 689, at p. 27, SC rollo.

[2] CA-G.R. No. 30871-R, September 7, 1963, Eugenio Angeles, J., ponente, with Juan L. Lanting and Magno S. Gatmaitan, JJ., concurring, pp. 15-26, *ibid*.

[3] CA-G.R. No. 13872-R, August 14, 1958, Exh. J for Perez.

[4] Santos, vs. Gabriel, et al., L-22996, May 31, 1972, 45 SCRA 288; Benin vs. Tuason, L-26127, June 28, 1974 & other cases, 57 SCR A 531, 534.

[5] Ocampo, et al. vs. Jenkins, et al., 14 Phil. 681, 684, 688, citing among others. Chamberlain vs. Pierson, 87 Fed. Rep. 420.

[6] Abellana vs. Dosdos, et al. L-19498, Feb. 26, 1965, 13 SCRA 244; Roque vs. Buan, L-22459, Oct. 31, 1967, 21 SCRA 642; Cui vs. Court of Appeals L-24072, July 29, 1968, 24 SCRA 189; Philippine American Life Insurance Company vs. Honorato R. Santamaria, L-26719, February 27, 1977, 31 SCRA 798; People vs. Boduso, L-30450-51, Sept. 30, 1974, 60 SCRA 60.

[7] In Pioneer Ins. & Surety Co. vs. Yap, L-36232, Dec. 19, 1974, this Court thru its Second Division, per Fernandez, J., held that findings by appellate court based on speculation, surmises or conjectures are not binding on the Court.

[8] Rule 131, 5, par. (j); Rules of Court: Disputable presumptions - The following presumptions are satisfactory if

uncontradicted, but may be contradicted and overcome by other evidence.

xxx xxx xxx

(j) That a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that things which a person possesses, or exercises acts of ownership over, are owned by him, (*italics supplied*)

[9] Art. 531 Civil Code. Possession is acquired by the material occupation of a thing or the exercise of a right, or by the fact that it is subject to the action of our will, or by proper legal established for acquiring such right.

[10] See also *Molina vs. De Bacud, et al.*, 19 SCRA 956.

[11] Rule 130, Sec. 25, Rules of Court: Admission by third party. - The rights of a party cannot be prejudiced by an act, declaration, or omission of another, and proceedings against one cannot affect another, except as hereinafter provided. *Moran*, Rules of Court, Vol. 5, 1970 Ed. 249. *Tansico et al. vs. Ramoso et al.* 59 Phil. 672.

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