

BELINDA C. SABANAL-BAAL, REPRESENTED BY DANILO S. BAAL AND AMADO S. BAAL, PLAINTIFF-APPELLANT, VS. SPOUSES EDMUNDO AND SUSAN GANABAN AND THE REGISTER OF DEEDS OF CAGAYAN DE ORO ...

Ponente: BORJA, J.

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BORJA, J.:

APPEAL under Rules 41 and 44 of the Rules of Court from the August 27, 2010 Judgment[1] of the Regional Trial Court (RTC), 10[th] Judicial Region, Branch 21, Cagayan de Oro City, in Civil Case No. 2008-195, a suit for “Annulment of Certificate of Title Nos. T-143906 and T-143908 and Quieting of Title with Damages”.

The Facts of the Case

Plaintiff Belinda C. Sabanal-Baal is one of the surviving heirs of the late Spouses Galo and Candida Cabulosan-Sabanal. When Candida died in 1966, all the properties of the spouses Sabanal were orally partitioned among Galo and his six (6) children namely: plaintiff Belinda, Ester C. Sabanal-Caylo, Rosa C. Sabanal, Clieto Sabanal, Francisco C. Sabanal and Corazon C. Sabanal-Cahoy.[2]

Among the partitioned properties of the spouses Sabanal is Cadastral Lot 1293-C-4 covered under Tax Declaration No. 72321 situated in Kauswagan, Cagayan de Oro City with an area of 727 square meters.[3] Allegedly, two-thirds (2/3) of the said property was assigned to Belinda while the remaining one-third (1/3) was assigned to Clieto Sabanal, the predecessor-in- interest of defendant Susan Sabanal Ganaban.[4]

Belinda alleges that, since 1996, she has been allegedly occupying her share to the exclusion of all others; that in 1984 and 1987, her children, Amado S. Baal and Danilo S. Baal, with her conformity, built their houses thereon.[5]

In 2007, Belinda discovered that defendant Edmundo Ganaban, the husband of defendant Susan Ganaban, was able to secure on October 2, 1989 an Original Certificate of Title No. P-3317[6] over Cadastral Lot 1293-C-4. Later, this same lot was subdivided and Transfer Certificates of Title Nos. T-143906[7] and T-143908[8] were issued in the name of Edmundo Ganaban.

Meanwhile, the properties became the subject of an auction sale by virtue of a Decision rendered by the RTC, Branch 41, Cagayan de Oro City in Civil Case No. 98-696 for “specific performance, etc.”[9] filed by Venus Trigosa Hanaoka against the spouses Edmundo and Susan Ganaban.[10]

In December 2007, upon discovery of the auction sale, Belinda confronted the spouses Ganaban and made a demand for the cancellation of the certificates of title over the said properties.[11]

After Belinda’s demand went unheeded, she filed the instant case on August 13, 2008 for “Annulment of Certificate of Titles of TCT No. T-143906 and T-143908 and Quieting of Title with Damages” against the spouses Ganaban.[12]

On August 20, 2008, the RTC issued summons to spouses Ganaban which the latter duly received.[13]

Defendants failed to file an answer to the complaint within the reglementary period. Whereupon, Belinda filed a motion to declare defendants in default"[14] which the RTC granted in its Order of November 3, 2008.[15]

On August 27, 2010, the RTC rendered Judgment dismissing the case for insufficiency of evidence.[16] Belinda filed a motion for reconsideration[17] which was denied by the RTC in its October 27, 2010 Order.[18]

Hence, the present appeal in which Belinda, hereinafter, appellant, ascribes the following as errors of the trial court, viz:

I

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT WHEN IT RENDERED A JUDGMENT NOT SUPPORTED WITH FACTS AND THE LAW ON WHICH THE JUDGMENT IS BASED.

II

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT WHEN IT RENDERED A JUDGMENT CONTRARY TO EVIDENCE AND LAW.[19]

The Ruling of the Court

The two errors are interrelated and will be discussed jointly.

Article VIII, Section 14 of the Constitution provides:

SECTION 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

The Court holds that the assailed decision substantially complies with the mandate of foregoing Constitutional provision. The Court finds that the lower court's decision contains a summary of appellant's evidence, findings of facts as well as an application of case law. Viz –

Evaluating the evidence of the plaintiff, which are parole and documentary evidences, the Court finds that it is insufficient to prove their case even if it was presented ex-parte. Firstly, the Affidavits of Confirmation of Oral Partition, is [sic] too broad [for the court to construe] the extent of the share of the plaintiff. It did not provide the technical description of the property, supposedly the share of the plaintiff. Neither [has] the plaintiff shown that the lot area supposedly to be their share is within the technical description of the area described in TCT Nos. T-143906 and T-143908 which plaintiffs prayed to be cancelled. Secondly, it appeared from the evidence of plaintiff that defendant Susan Ganaban is one of the heirs so that in the absence of proof to the contrary, the property titled under her name is her share. Lastly, the Affidavit of Oral Partition executed by Darcy Peter Tablando Sabanal, Oscar S. Salcedo and Arnulfo S. Caylo are all hearsay since they did not testify.[20]

In the subject judgment, the trial court individually assessed the documents submitted by the appellant and found them wanting in establishing her allegation of possession and other acts of dominion over the subject property.

In *People v. Orbita*,[21] the Supreme Court held –

The purpose of Article VIII, Section 14 of the Constitution is to inform the person reading the decision, and especially the parties, of how it was reached by the court after consideration of the pertinent facts and

examination of the applicable laws.[22] The losing party is entitled to know why he lost, so he may appeal to a higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.[23] Thus, a decision is adequate if a party desiring to appeal therefrom can assign errors against it. x x x[24]

Appellant insists that she was able to prove by preponderance of evidence her clear and unmistakable right over TCT Nos. 143906 and 143908; that the Affidavits of Confirmation of Oral Partition executed by the heirs of spouses Galo and Candida Sabanal were sufficient proof that the subject lands were assigned by the spouses Galo in her favor; that the trial court should have given the affidavits more weight especially the affidavit executed by Corazon Sabanal-Cahoy who was a direct heir of the spouses Sabanal and who also testified that she was present when the subject properties were orally partitioned. Moreover, she claims that “The absence of the technical description of the subject land in the affidavits of confirmation cannot defeat the clear and unequivocal pronouncement of the heirs of the late spouses [Sabanal] that said lots were actually partitioned to [Belinda] as early as 1966”. Appellant further contends that her claim to the subject properties is bolstered by the fact that she and her sons are in open, continuous, exclusive, adverse and notorious possession of the lands for the past forty (40) years.[25]

The Court is not swayed.

The alleged ownership of Belinda over Cadastral Lot 1293-C-4 stemmed from an oral partition in which 2/3 of the disputed lot was assigned to her. In *Maglucot-Aw v. Maglucot*, [26] the Supreme Court held thus-

On general principle, independent and in spite of the statute of frauds, courts of equity have enforced oral partition when it has been completely or partly performed.

Regardless of whether a parol partition or agreement to partition is valid and enforceable at law, equity will [in] proper cases[,] where the parol partition has actually been consummated by the taking of possession in severalty and the exercise of ownership by the parties of the respective portions set off to each, recognize and enforce such parol partition and the rights of the parties thereunder. Thus, it has been held or stated in a number of cases involving an oral partition under which the parties went into possession, exercised acts of ownership, or otherwise partly performed the partition agreement, that equity will confirm such partition and in a proper case decree title in accordance with the possession in severalty.

In numerous cases it has been held or stated that parol partition may be sustained on the ground of estoppel of the parties to assert the rights of a tenant in common as to parts of land divided by parol partition as to which possession in severalty was taken and acts of individual ownership were exercised. And a court of equity will recognize the agreement and decree it to be valid and effectual for the purpose of concluding the right of the parties as between each other to hold their respective parts in severalty.

A parol partition may also be sustained on the ground that the parties thereto have acquiesced in and ratified the partition by taking possession in severalty, exercising acts of ownership with respect thereto, or otherwise recognizing the existence of the partition.

A number of cases have specifically applied the doctrine of part performance, or have stated that a part performance is necessary, to take a parol partition out of the operation of the statute of frauds. It has been held that where there was a partition in fact between tenants in common, and a part performance, a court of equity would have regard to enforce such partition agreed to by the parties. [Emphasis Ours]

Accordingly, actual possession and exercise of dominion over definite portions of the property in accordance with an alleged partition are considered strong proof of an oral partition.[27]

Belinda relied mainly on the Affidavits of Confirmation of Oral Partition to prove her ownership over the property in question. As found by the trial court, the affidavits of confirmation of oral partition executed by Darcyl Sabanal, Oscar Salcedo, and Arnulfo Caylo could not be given weight on the ground that these are all hearsay. It is settled that affidavits are inadmissible for being hearsay since they are not generally prepared by the affiant but by another who uses his own language in writing the affiant's statements, which may thus be either omitted or misunderstood by the one writing them. Moreover, the adverse party is deprived of the opportunity to cross-examine the affiant. For this reason, affidavits are generally rejected unless the affiants themselves are placed on the witness stand to testify thereon.[28] Darcyl, Oscar, and Arnulfo did not testify; their affidavits are inadmissible.

The testimony of Corazon Sabanal-Cahoy, on the other hand, deserves scant consideration. She merely testified that there was an oral partition and affirmed the content of her affidavit of confirmation of oral partition which stated among others that-

xxx

5. That few years after the death of our mother and following the oral partition we have executed, my sister Belinda C. Sabanal-Baal Occupied and continued to be in possession to date of her 2/3 share of the aforesaid land in a concept of the owner to the exclusion of others;[29]

Corazon did not testify as to what specific acts of dominion or ownership were performed by Belinda. Hers was merely a general claim that Belinda occupied the disputed lot after the oral partition, which is a mere conclusion of law and not factual proof of possession, and therefore unavailing and cannot suffice. Evidence of this nature is unreliable.[30] The Court notes that the evidence required to prove ownership must be clear and convincing evidence.

The testimony of Amado Baal also deserves scant consideration. His testimony that he built his house in the 2/3 share of his mother Belinda in the disputed property in 1984 is, standing alone, insufficient to prove Belinda's possession over the property. Mere allegation is not evidence and is not equivalent to proof.[31]

The established legal principle in actions for annulment or reconveyance of title is that a party seeking it should establish not merely by a preponderance of evidence but by clear and convincing evidence that the land sought to be reconveyed is his. In an action to recover, the property must be identified and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.[32] Clear and convincing proof is more than mere preponderance, but not to the extent of such certainty as is required beyond reasonable doubt as in criminal cases.[33] It is well-settled that in the hierarchy of evidentiary values, proof beyond reasonable doubt is at the highest level, followed by clear and convincing evidence, preponderance of evidence and substantial evidence, in that order.[34] Hence, in order for the Court to recognize or enforce an oral partition, appellants must have proved by clear and convincing evidence that they have exercised acts of ownership over the property.

Appellant was not able to prove by clear and convincing evidence her ownership over the disputed property. Scouring the records, the Court finds no concrete proof that after the oral partition of the subject property, the appellant occupied the said property and exercised acts of dominion over it. The Court cannot confirm the oral partition since the appellant was not able to prove possession.

It is of no moment that the defendants were declared in default in the case below. In judgments by default, plaintiffs are not automatically entitled to the relief prayed for. As the High Court explained in *Gajudo v. Traders Royal Bank*[35] -

xxx [C]omplainants are not automatically entitled to the relief prayed for, once the defendants are declared in

default. Favorable relief can be granted only after the court has ascertained that the relief is warranted by the evidence offered and the facts proven by the presenting party. In Pascua,[36] this Court ruled that "x x x it would be meaningless to require presentation of evidence if every time the other party is declared in default, a decision would automatically be rendered in favor of the non-defaulting party and exactly according to the tenor of his prayer. This is not contemplated by the Rules nor is it sanctioned by the due process clause." [37]

The import of a judgment by default was further clarified in *Lim Tanhu v. Ramotele*. [38] The following disquisition is most instructive:

"Unequivocal, in the literal sense, as these provisions [referring to the subject of default then under Rule 18 of the old Rules of Civil Procedure] are, they do not readily convey the full import of what they contemplate. To begin with, contrary to the immediate notion that can be drawn from their language, these provisions are not to be understood as meaning that default or the failure of the defendant to answer should 'be interpreted as an admission by the said defendant that the plaintiff's cause of action find support in the law or that plaintiff is entitled to the relief prayed for.' xxx.

xxx xxx xxx

"Being declared in default does not constitute a waiver of rights except that of being heard and of presenting evidence in the trial court. xxx.

"In other words, a defaulted defendant is not actually thrown out of court. While in a sense it may be said that by defaulting he leaves himself at the mercy of the court, the rules see to it that any judgment against him must be in accordance with law. The evidence to support the plaintiff's cause is, of course, presented in his absence, but the court is not supposed to admit that which is basically incompetent. Although the defendant would not be in a position to object, elementary justice requires that only legal evidence should be considered against him. If the evidence presented should not be sufficient to justify a judgment for the plaintiff, the complaint must be dismissed. And if an unfavorable judgment should be justifiable, it cannot exceed in amount or be different in kind from what is prayed for in the complaint." [39]

Hence, while appellants were allowed to present evidence *ex parte*, they were not excused from establishing their ownership over the disputed property by clear and convincing evidence. Stated differently, judgment by default does not lower the degree of proof required of appellants to prove their case. Basic is the rule that the party making allegations has the burden of proving them. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle holds true, especially when the latter has had no opportunity to present evidence because of a default order. Needless to say, the extent of the relief that may be granted can only be as much as has been alleged and proved. [40]

Appellants' allegation that the appellees resorted to fraud when they caused the issuance of the Original Certificate of Title No. P-3317 and subsequently subdivided said property resulting in the issuance of Transfer Certificates of Title No. T-143906 and T-143908 in the name of appellee Edmundo Ganaban is unsupported by evidence. It must be stressed that mere allegations of fraud are insufficient. Intentional acts to deceive and deprive another of his right or in some manner injure him, must be specifically alleged and proved. For an action for reconveyance based on fraud to prosper, the party seeking reconveyance must prove by clear and convincing evidence his title to the property and the fact of fraud. [41]

In fine, the Court affirms the trial court holding that there is no sufficient evidence to warrant the annulment of appellees' title as appellant had not shown that after the oral partition, she, along with her family, had exercised dominion over their alleged 2/3 share of the property.

WHEREFORE, the appeal is DENIED. The dismissal of the complaint in Civil Case No. 2008-195 is hereby AFFIRMED.

SO ORDERED.

Francisco and Badelles, JJ., concur.

[1] Records, pp. 62-66.

[2] Records, pp. 2-7.

[3] Annex “B”, Records, p. 12.

[4] Supra at Note 2.

[5] Ibid.

[6] Annex “E”, Records, p. 23.

[7] Annex “F”, Records, pp. 24-25.

[8] Annex “G”, Records, pp. 26-27.

[9] Exhibit “D”, Records, pp. 44-49.

[10] Annex “I”, Records, pp. 56-57.

[11] Supra at Note 2.

[12] Records, pp. 2-7.

[13] Records, p. 30.

[14] Records, p. 31-32.

[15] Records, p. 34.

[16] Records, p. 66.

[17] Records, pp. 67-74.

[18] Records, p. 77.

[19] Rollo, p. 12.

[20] Records, pp. 65-66.

[21] G.R. No. 136591, July 11, 2002.

[22] Francisco vs. Permskul, 173 SCRA 324 (1989).

[23] ABD Overseas Manpower Corporation vs. NLRC, 286 SCRA 454 (1998).

[24] People vs. Macoy, 275 SCRA 1 (1997).

[25] Rollo, pp. 16-23.

[26] G.R. No. 132518, March 28, 2000

[27] Heirs of Mario Pacres v. Heirs of Cecilia Ygoña, G.R. No. 174719, May 5, 2010

[28] Emerita de Guzman v. Antonio Tumolva, G.R. No. 188072, October 19, 2011.

[29] Records, p. 16.

[30] Republic of the Philippines v. East Silverlane Realty Development Corporation, G.R. No. 186961, February 20, 2012.

[31] Social Security Commission, et al. v. Teresa Favila, G.R. No. 170195, March 28, 2011.

[32] Manotok Realty, Inc., et al. v. CLT Realty Development Corporation, G.R. No. 123346, December 4, 2007.

[33] Caurdanetaan Piece Workers Union, et al., v. Undersecretary Bienvenido Laguesma, G.R. No. 113542, February 24, 1998.

[34] Marita Bernaldo v. The Ombudsman, et al., G.R. No. 156286, August 13, 2008.

[35] G.R. No. 151098, March 21, 2006 citing Pascua v. Florendo, 220 Phil. 588, April 30, 1985

[36] Pascua v. Florendo, *supra*.

[37] Pascua v. Florendo, *supra*, pp. 595-596, per Gutierrez, Jr., J.

[38] 66 SCRA 425, August 29, 1975. See also Heirs of Anastacio Fabela v. CA, *supra* at note 20.

[39] *Id.*, pp. 452-453, per Barredo, J.

[40] *Supra* at Note 28. (Gajudo v. Traders).

[41] Heirs of Pedro de Guzman v. Angelina Perona, et al., G.R. No. 152266, July 2, 2010.

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