

**ILUMINADA GUZMAN, ALIPIO GUZMAN, CONSOLACION GALVE,
SUZETTE FERRERA, PABLO GUZMAN, JR., SIMEON GUZMAN,
EMMANUEL GUZMAN AND ROBINSON GUZMAN,
PLAINTIFFS-APPELLANTS, VS. GEORGE ORC...**

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal[1] from the Order[2] dated June 17, 2013 of the Regional Trial Court (RTC), Branch 64, San Jose, Antique in Civil Case No. 0207 for Quieting of Title, Recovery of Possession and Damages. The assailed order dismissed the instant case for lack of jurisdiction.

The Antecedents

This appeal is rooted in a Complaint[3] for Quieting of Title, Recovery of Possession and Damages before the RTC of San Jose, Antique, filed by plaintiffs-appellants against defendants-appellees. The instant action involves parcel of land, denominated as Lot. No. 4099 situated in La Rioja, Patnongon, Antique, covered by OCT No. P-23965,[4] (Lot No. 4099). Lot No. 4099 is bounded on the northeastern side by Lot No. 4094 and Lot No. 4098. Lot No. 4094 is owned by defendants-appellees while Lot No. 4098 was formerly wholly owned by Emerita Bacaoco until defendants-appellees acquired a right of way over it along the northeastern side of Lot No. 4099.

Plaintiffs-appellants alleged, in their Amended Complaint,[5] that they are co-owners of Lot No. 4099, the same being registered in the name of Pablo Y. Guzman, the late husband of plaintiff-appellant Illuminada Guzman and the late father of the other plaintiffs-appellants herein. That defendants-appellees, owning a beach resort on Lot No. 4094, built a road to the beach, running along the northeastern side of Lot No. 4099. Later, despite plaintiffs-appellants' objections, defendants-appellees cut down the tress on the northeastern side of Lot No. 4099. Consequently, plaintiffs-appellants caused a relocation survey to be conducted on Lot No. 4099 and as shown by the relocation survey plan,[6] defendants-appellees allegedly encroached upon a portion of Lot No. 4099 consisting of 118 square meters.[7]

Plaintiffs-appellants alleged further that they are entitled to recover the possession of the portion of their land allegedly encroached upon by the defendants-appellees and that they are likewise entitled to damages occasioned by the alleged encroachment of defendants-appellees.[8] Thus, this complaint.

In their Amended Answer with Counterclaim,[9] defendants-appellees vehemently denied the allegations in the complaint and averred that they acquired a right of way over a portion of Lot No. 4098 by way of purchase from its owner Emerita Bacaoco.

By way of special and affirmative defenses, defendants-appellees raised the following arguments: the verification and certification of non-forum shopping is legally defective as it was signed by only one of the plaintiffs-appellants; that the instant complaint failed to implead as an indispensable party, Emerita Bacaoco, the owner of Lot No. 4098 from whom the defendants-appellees acquired a portion of the same; the action

questioning defendants-appellees' ownership over a portion of Lot No. 4098 has prescribed; the portion of Lot No. 4099 allegedly encroached upon by defendants-appellees has not been specified, thus, this complaint stated no cause of action; this complaint likewise failed to state a cause of action for quieting of title as there is no cloud over plaintiffs-appellants' title; this complaint is also premature on the ground that it has not complied with the barangay conciliation proceedings; that the trial court has no jurisdiction to adjudicate on the validity of the cadastral survey; and, even assuming that there was encroachment, still the trial court has no jurisdiction over this case as the assessed value of the disputed portion is below P20,000, hence, jurisdiction is with the first level courts.[10]

As counterclaim, defendants-appellees asserted that as a result of the filing of this malicious, baseless and unfounded action, defendants-appellees demand moral and exemplary damages, attorney's fees and per court appearance fees. Likewise, defendants-appellees prayed that the instant case be dismissed.[11]

On January 28, 2013, defendants-appellees moved for the setting for preliminary hearing on the special and affirmative defenses,[12] which was opposed by the plaintiffs-appellants.[13] A Reply (To The Opposition)[14] was subsequently filed by defendants-appellees.

On March 4, 2013, a preliminary hearing on the special and affirmative defenses was conducted and thereafter, the parties were directed to submit their respective memoranda.[15]

The Ruling of the RTC

After due proceedings, the RTC rendered its challenged June 17, 2013 Order[16] upon the following findings and conclusions:

“Finally, recovery of possession which is tantamount to correction of the title shall be filed and entitled in the original case in which the decree of registration is entered and the petition of this kind is within the jurisdiction of the Land Registration Court and not in the Regional Trial Court to prevent the confusion and to avoid difficulty in tracing the origin of entries in the registry.

WHEREFORE, premises considered, for lack of jurisdiction, this case is DISMISSED. All other issues raised by the plaintiffs and defendants are subsumed by this Order.”

Dissatisfied with the foregoing decision, plaintiffs-appellants appealed before Us assigning the following errors:

I.

THE RTC MADE AN ERRONEOUS FINDING OF FACT THAT PLAINTIFFS-APPELLANTS SEEK TO RECOVER A PORTION OF LOT 4099 ERRONEOUSLY INCLUDED BY THE CADASTRAL SURVEY IN LOT 4098.

II.

THE RTC ERRED IN DISMISSING THE CASE FOR LACK OF JURISDICTION OVER THE SUBJECT MATTER OF THE CASE. [17]

This Court's Ruling

The instant appeal is bereft of merit.

Recovery of Possession Not Proper Remedy

Plaintiffs-appellants contend that they seek to recover a portion of Lot No. 4099 encroached upon by the defendants-appellees which portion is covered by OCT No. P-23965 and not a portion included in the neighboring land, Lot No. 4098. Consequently, the discourse of the RTC on its lack of jurisdiction to order the correction of a

cadastral survey is irrelevant.

We beg to disagree.

As correctly observed by the trial court, plaintiffs-appellants alleged that there was encroachment due to an erroneous cadastral survey and the same survey should have been corrected to reflect the exact area of Lot No. 4099. The trial court likewise observed that there was a cadastral survey on Lot No. 4099 and the said survey was made the basis for the issuance of OCT No. P-23965. As such, this case sought for the return to the plaintiffs-appellants of a portion of Lot No. 4099 as reflected by the relocation survey plan conducted by Gadayan Surveying Office. However, as stated by the trial court, the said survey is not binding:

“The instant case seeks to return to the plaintiffs the portion of Lot 4099 encroached by the defendants according to their complaint we take note that the survey was conducted by Gadayan Surveying Office and the said survey did not reflect the approval of DENR, hence, it did not amend the previous cadastral survey which was conducted and approved by the said government agency. This survey cannot be considered as a correction survey conducted by the government to correct the previous survey which was already approved and was made the basis of the issued (sic) of the Original Certificate of Title No. P-23965. We further take note the correction survey of Lot 4099 the area of which is Twenty Six Thousand Seven Hundred Seventy-Three (26,773) square meters and the said area is reflected while in the plan prepared by Gadayan Surveying Office the area was reduced to Twenty Six Thousand Three Hundred Seventy-Three (26,373) square meters.”[18]

The aforesaid relocation survey plan conducted by Gadayan Surveying Office, an independent private surveyor, is at best merely recommendatory, which can only mean that without the approval of the Regional Director of the Bureau of Lands to whom it was submitted, it can have no force and effect, and fittingly, can only be regarded as a mere scrap of paper.[19] Moreover, plaintiffs-appellants even offered no proof that the same was duly approved.

Rejecting therefore the correctness, validity and efficacy of the relocation survey plan, this complaint, which primordially hinges on the said survey plan, has no more leg to stand on.

As again correctly observed by the trial court, the cause of the alleged encroachment by the defendants-appellees is the erroneous cadastral survey that excluded a portion of Lot No. 4099 on the northeastern side and instead, included said portion as part of Lot No. 4098. This fact was even admitted by the plaintiffs-appellants themselves. The pertinent portion of the RTC's ruling is quoted hereunder:

“The main issue of this case is whether or not the court has the authority to order the necessary correction of allegedly erroneous technically (sic) description and make it conform to the correct area as alleged in the complaint of the plaintiffs as shown by the relocation survey plan conducted in lot 4099 whereby the findings that the defendants encroached in a portion of lot 4099 considering that in the attached sketch plan prepared by Geodetic Engineer Renan Gadayan the wood fence of the defendants have encroached 1.32 meters from the indicated monument number 9. In fact, the plaintiff admitted that the cause of this encroachment is the erroneous cadastral survey that excluded a portion of the northern side part of the land by the area to be covered by lot 4099. Instead, the cadastral survey included said portion as part of lot 4098.

It has long been settled that in cadastral cases the jurisdiction of the court over lands already registered is limited to the necessary correction of technical errors in the description of the land provided such corrections do not impair the substantial rights of the registered owner, and that such that jurisdiction cannot operate to deprive a registered owner or his title.”[20]

This being the case, the trial court stated that a petition for correction should have been filed and entitled in the original case in which the decree of registration was entered. Hence, the trial court held that the ordinary civil action for recovery of possession is not the proper remedy of the plaintiffs-appellants.

This Court agrees with the trial that such defects in plans prepared in connection with areas adjudicated in ordinary or voluntary registration proceedings may be corrected after the cadastral survey in accordance with Sec. 112 of Act 496,[21] which has been superseded by Sec. 108 of Presidential Decree (P.D.) No. 1529,[22], thus:

SEC. 108. Amendment and alteration of certificates. -- No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by Register of Deeds, except by order of the proper Court of First Instance. A registered owner or other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate; x x x or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court, which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns, without his or their written consent. x x x

All petitions or motions filed under this Section as well as under any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered. (emphasis supplied)

The last paragraph above provides that a petition for correction shall be filed and entitled in the original case in which the decree of registration was entered. As stated by the trial court, the jurisdiction to entertain the petition lies with the Land Registration Court. This rule aims to prevent confusion and to avoid difficulty in tracing the origin of entries in the registry.[23]

On a final note, the above findings of fact of the trial court must be accorded respect. It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons.[24]

We have perused the records and We hold that the plaintiffs-appellants failed to persuade Us to overturn the findings of the trial court. As it is well-settled in this jurisdiction, factual findings of the trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect. The absence of any showing that the trial court plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case, or that its assessment was arbitrary, impels this Court to defer to the trial court's determination according credibility to the defendants-appellees' evidence.[25]

WHEREFORE, premises considered, the instant appeal is DENIED. The Order dated June 17, 2013 issued by the RTC, Branch 64, San Jose, Antique, in Civil Case No. 0207 is hereby AFFIRMED IN TOTO.

SO ORDERED.

Hernando, J., Chairperson and Azcarraga-Jacob, JJ., concur.

[1] See Notice of Appeal, records, pages 133-134.

[2] Penned by Judge Antonio M. Natino, records, pages 125-130.

- [3] See Complaint, records, pages 1-11; see also Amended Complaint, records, pages 35-48.
- [4] Records, page 40
- [5] Records, pages 35-48.
- [6] Records, page 41
- [7] See Complaint, supra at note 3.
- [8] See Complaint, supra at note 3.
- [9] Records, pages 78-84.
- [10] See Answer, supra at note 9.
- [11] See Answer, supra at note 9.
- [12] Records, pages 89-92.
- [13] Records, pages 97-99.
- [14] Records, pages 100-103.
- [15] See Order, records, page 110.
- [16] Supra, at note 2.
- [17] See page 5 of Appellants' Brief, rollo, page 30.
- [18] See pages 3-4, records, pages 127-128.
- [19] Life Homes Realty Corp. v. CA, G.R. No. 120827, February 15, 2007.
- [20] See pages 4-5, records, pages 128-129.
- [21] The Land Registration Act.
- [22] Property Registration Decree.
- [23] Life Homes Realty Corp. v. CA, supra; See also Noblejas, Registration of Land Titles and Deeds, 1986 ed., p. 190.
- [24] Tayco v. Tayco-Flores, G.R. No. 168692, December 13, 2010.
- [25] People v. Nogra, G.R. No. 170834, August 29, 2008.

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