

ANTONIO SOLIS AND ANGELA SOLIS CALIMLIM, PETITIONERS, VS. HONORABLE COURT OF APPEALS, JOSE SOLIS AND FLORENCIA DIOQUINO, RESPONDENTS.

G.R. Nos. L-46753-54. August 25, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court. Petitioners Antonio Solis and Angela Solis Calimlim seek the review of the decision (pp. 81-88, Rollo) of the Honorable Court of Appeals in CA-G.R. Nos. 45505-R and 45506-R dated May 12, 1977 which set aside the decision of the Court of First Instance of Pangasinan in Civil Case No. D-2039 declaring petitioner Antonio Solis the exclusive owner of an unregistered parcel of land consisting of an area of five hundred thirty-six (536) square meters.

In a complaint (pp. 1-8, Record on Appeal) dated May 30, 1967, plaintiffs Antonio Solis and Angela Solis Calimlim alleged that they are co-owners of a parcel of residential land situated at Barrio Bued, Calasiao, Pangasinan, with an area of 1,073 square meters more or less; that this parcel of land was inherited from their parents, Simeon Solis and Petronila Bauzon; that in 1939, they allowed defendants Jose Solis and his wife Florencia Dioquino to construct a house on the eastern portion of plaintiffs' parcel of land (consisting of 536 square meters) with the understanding that they (defendants) should vacate the premises as soon as their financial conditions would permit them. In 1965, plaintiffs demanded that the defendants vacate the premises but the latter refused.

The answer (pp. 8-10, Record on Appeal) of defendants raised as affirmative defense the fact of their ownership of the property in question having acquired the same by way of donacion propter nuptias from spouses Tomas Solis and Hermenegilda Jimenez, way back in 1931. They also alleged that since 1931, they were in possession of said property openly, continuously and adversely, to the exclusion of all others, and in the concept of owners and that since 1931 they have paid the taxes due on the property.

On November 21, 1968, plaintiffs filed a Motion for the Issuance of a Writ of Preliminary Mandatory Injunction (pp. 11-12, Record on Appeal) praying that the defendants or their agents be enjoined from commencing and continuing the construction of a residential house on the land in question. The motion was granted in an order dated December 11, 1968.

On February 17, 1969, plaintiffs and defendants, thru their respective counsel, filed the following partial stipulation of facts:

"COMES NOW the plaintiffs thru their undersigned counsel, and the defendants thru their counsel, respectfully submit the following partial stipulation of facts:

"1. Parties know the identity of the land in litigation as described under paragraph 11 of the complaint;

"2. That the subject matter of the litigation refers to the eastern side of the property described in par. 11 of the

complaint consisting of about 526 square meters;

"3. That the defendants has (sic) a house in the said eastern portion of the said property;

"4. That the whole property was previously owned by Simeon Solis;

"6. That there exist an alleged donation propter nuptias executed by deceased Tomas Solis in favor of Jose Solis, the defendant over the eastern half of the said property described in par. 11 of the complaint;

"7. That Tomas Solis, father of defendant Jose Solis was the nephew of Simeon Solis; that Tomas Solis was the son of Domingo Solis; brother of Simeon Solis;

"8. That the land in question has been declared for taxation purposes as follows:

- a. Before 1918 - T.D. 7659 in the name of Simeon Solis.
- b. 1918 - T.D. 21465 revised T.D. 7659 also in the name of Simeon Solis.
- c. 1920 - T.D. 37709 revised T.D. 21465 also in the name of Simeon Solis.
- d. 1951 - T.D. 11144 revised T.D. 37709 also in the name of Simeon Solis.
- e. 1965 - T.D. 27385 revised T.D. 11144 now in the name of Antonio Solis.
- f. 1966 - T.D. 16147 revised T.D. 27385 also in the name of Antonio Solis.
- g. 1967 - T.D. 20097 cancels T.D. 16147 in the name of Jose Solis.

x x x" (pp. 15-17, Record on Appeal).

The hearing of the case was conducted on a single setting on June 25, 1969 where both parties were allowed to present their evidence.

After presentation of evidence, oral and documentary, the trial court found that indeed, herein private respondents spouses Jose Solis and Florencia Dioquino were in possession of the eastern half portion of the property described in the complaint for more than thirty years. However, it ruled that such possession cannot be held adversely against the plaintiffs who had shown a better title thereto. The pertinent portion of the decision of the trial court dated July 17, 1969 reads:

"The court rules that while the defendants had possessed the eastern portion of the land in question for more than 30 years, such possession cannot be held adversely against the plaintiffs who had shown a better title thereof. Hence, prescription does not lie in this case.

"From the partial stipulation submitted by the parties, it was shown that the whole property was previously owned by Simeon Solis, father of herein plaintiffs, and that the same land had been declared for taxation purposes in the name of Simeon Solis from 1918 to 1951."

"While the defendants exhibited the deed donation propter nuptias (Exh. 1) executed in their favor by Tomas Solis and Hermenegilda Jimenez, they have however, failed to present proof that Simeon Solis who previously owned the whole land in question had conveyed the eastern portion thereof consisting of 536 square meters to his brother Tomas Solis. The situation shows in effect, that Tomas Solis had no title to the property he donated to his children, the defendants, and therefore the latter acquired no right over the subject property.

"There is evidence of the plaintiffs to the effect that Angela Solis Calimlim had already renounced her right and interest over the land in question in favor of Antonio Solis.

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the court hereby renders judgment 1) declaring the

plaintiff Antonio Solis the exclusive owner of the land in question; 2) ordering the defendants to vacate the eastern portion of the land in question; 3) ordering the defendants to pay plaintiffs the sum of P800.00 for attorney's fees; and 4) to pay the cost of the suit.

"SO ORDERED". (pp. 27-29, Record on Appeal)

Not satisfied with the decision of the trial court, spouses Jose Solis and Florencia Dioquino appealed to the Court of Appeals. In a decision (pp. 81-88, Rollo) dated May 12, 1977, the Court of Appeals reversed the decision of the trial court and declared the appellants the lawful owners of the eastern half of the parcel of land described in the complaint.

The pertinent portion of the decision reads:

"In the present case, there is no question that the actual possession by the appellants of the disputed portion of the land dates back to 1933 and since then appellants have been in the adverse, continuous, open, public, peaceful and uninterrupted possession of the disputed property in the concept of an owner until this case was filed in court on May 30, 1967.

"x x x.

"x x x. If we have said it before, we repeat it here for emphasis that the appellants took possession of the disputed eastern portion of the land as owners by virtue of a donation executed in their favor in 1933. Since then, they have exercised various acts of dominion over the disputed property such as constructing their house thereon enjoying its fruits to the exclusion of all others and paying realty taxes corresponding to the disputed one-half portion of the land. Even the plaintiffs acknowledge this fact by their own evidence that they, for their own part, also paid half of the realty taxes for the western portion of the land (Exhibits C, C-1 to C-6; tsn., June 25, 1969, p. 39).

"x x x.

"x x x. By the plaintiffs' own evidence, they paid realty taxes only for the other half of the property (Exhibits C, C-1 to C-6; tsn., June 25, 1969, p. 39). This is strongly indicative of the fact that the defendants are the owners of the eastern half of the land over which they, in turn, paid the corresponding half of the realty taxes from 1934 (Exhibits 2, 2-A to 2-S). Further, the circumstance that neither the appellants nor their donors have declared the disputed portion in their names prior to 1967 is not sufficient to overcome the undisputed possession for more than 30 years of the property in question by the appellants. (See *Vigor vs. Director of Lands*, CA 57 O.G. 5888).

"WHEREFORE, finding the Appeal to be meritorious, the judgment appealed from is hereby set aside, and another one entered dismissing the complaint and declaring the appellants as the lawful owners of the eastern half of the parcel of land described in the complaint without costs.

"SO ORDERED." (pp. 84-88, Rollo)

The Motion for Reconsideration filed thereat was denied on August 3, 1977.

Aggrieved, Antonio Solis and Angela Solis Calimlim filed the instant petition for review on certiorari on September 19, 1977. The herein petitioners manifested in their petition that they admit the findings of facts of the Court of Appeals as embodied in its decision, but they take exception to the conclusions drawn by the appellate court from the undisputed findings (p. 17, Rollo). The following arguments (pp. 23-24, Rollo) were presented in support of their petition:

"1. The Court of Appeals was not justified in concluding that the possession by private respondents over the disputed property was adverse and in the concept of owner, because such possession was merely tolerated by

the petitioners.

"2. The Court of Appeals erred in recognizing the validity and effect of the donation propter nuptias as sufficient to create or establish the just title of private respondents, as donees in said donation, although the alleged donor or grantor Tomas Solis, had no right or title whatsoever over the property in question.

"3. The Court of Appeals, in deciding that petitioner's cause of action had prescribed, overlooked the importance of determining when such cause of action accrued."

On November 3, 1977, We required the respondents to comment on the petition (p. 106, Rollo). After private respondents' comment and petitioners' reply were submitted, We gave due course to the petition on November 27, 1978 (p. 152, Rollo). Petitioners filed their brief on November 21, 1979 (p. 164, Rollo). Private respondents failed to file their brief within the required period. On March 12, 1980, We resolved to consider the petition submitted for decision without respondents' brief (p. 169, Rollo).

The land in question is not registered under the Torrens System. It consists of an area of 536 square meters and is located at the eastern portion of the land described under paragraph 11 of the complaint. It is admitted that the land described in paragraph 11 was originally owned by Simeon Solis, father of petitioner Antonio Solis.

It is the contention of petitioners that the Court of Appeals erred in holding that private respondents' possession of the land was adverse and in the concept of an owner because such possession was merely tolerated by petitioners.

The trial court found that indeed, private respondents were in possession of the property for more than thirty (30) years. Noteworthy, however, is the fact that it did not state that such possession was merely tolerated by petitioners. It only held that such possession cannot be held adversely against petitioners who had shown a better title thereto, in view of private respondent's failure to present any evidence showing how title passed from Simeon Solis, petitioners' father, to Tomas Solis, private respondents' father.

On the other hand, the appellate court, on the basis of the records of this case found that private respondents' possession of the premises way back in 1933 was adverse, continuous, open, public, peaceful and uninterrupted in the concept of an owner until this case was filed on May 30, 1967. It pointed out that private respondents exercised various acts of dominion over the disputed property, such as constructing their house thereon, enjoying its fruits to the exclusion of all others, and paying realty taxes corresponding to the disputed one-half portion of the land. It likewise gave due significance to the fact that petitioners acknowledged the ownership of the private respondents of one-half portion of the land when they also paid half of the realty taxes for the western portion of the land.

It is firmly settled that findings of fact of the Court of Appeals are final and binding upon this Court, if borne out by the evidence on record. There are of course certain recognized exceptions none of which, however, find any application here (*Tan v. CA, et al.*, L-48619, June 20, 1988). In fact, in the preliminary statement of their petition (p. 17, Rollo), petitioners manifested their admission of the findings of facts of the Court of Appeals.

Petitioners also contend that since no competent proof was adduced by private respondents to show how Simeon Solis, the previous owner, transferred ownership of the disputed premises to Tomas Solis, father of Jose Solis, the *donacion propter nuptias* executed by Tomas is not sufficient to create or establish the just title of private respondents as donees.

This contention of petitioners is not meritorious. Suffice it to state that even a void donation may be the basis of claim of ownership which may ripen into title by prescription (*Pensador vs. Pensador*, 47 Phil 959, 961). It is the essence of the statute of limitations that, whether the party had a right to the possession or not, if he entered under

the claim of such right and remained in possession for the period (ten years) named in the statute of limitations, the right of action of the plaintiff who had the better title is barred by that adverse possession. The right given by the statute of limitations does not depend upon, and has no necessary connection, (with) the validity of the claim under which the possession is held. x x x" (Vda. de Lima vs. Tio, L-27181, April 30, 1970, citing *Conspecto v. Fruto*, 129 US 182 (1889)). The "just title" required for acquisitive prescription to set in is not "titulo verdadero y valido"- or such title which by itself is sufficient to transfer ownership without necessity of letting the prescriptive period elapse but only "titulo colorado" - or such title where, although there was a mode of transferring ownership, still something is wrong because the grantor is not the owner (See *Doliendo vs. Biarnesa*, 7 Phil. 232).

The donacion was made in 1931 and spouses Jose Solis and Florencia Dioquino took possession of the land in 1933 by virtue of the donacion. It was the Code of Civil Procedure which was then in force. Under the Code of Civil Procedure, ten years of adverse possession by a person claiming to be the owner, in whatever way such occupancy may have commenced shall vest in every actual possessor of such land a full complete title. In *Ongsiaco vs. Dallo*, (27 SCRA 161) the Supreme Court said: 'Under the Code of Civil Procedure formerly in force, good or bad faith was immaterial for purposes of acquisitive prescription. Adverse possession in either character ripened into ownership after the lapse of ten years (*Miraflor vs. CA*, L-40151-52, April 8, 1986, 142 SCRA 18, 29).

Finally, petitioners assail respondent appellate court's holding that their cause of action had prescribed, overlooking the importance of determining when such cause of action accrued. In its findings of fact, the appellate court said that the record shows that Tomas Solis (private respondent's predecessor) was already in possession of the eastern portion in question before 1927 (t.s.n., June 25, 1969, pp. 41, 42, 47; p. 2, CA decision). However, no evidence was presented to show that Tomas Solis' possession thereof was adverse, exclusive or in the concept of an owner. Thus, the appellate court concluded that private respondents possession have been actual, adverse, continuous, open, public, notorious, peaceful and uninterrupted only in 1933, when they took possession of the property by virtue of the donacion propter nuptias. The respondent court, therefore, found and We agree that it was in 1933 when petitioners' cause of action accrued.

Even if we were to admit, as contended by petitioners, that their cause of action accrued only in 1941 (p. 3 of Reply; p. 148, Rollo), the first time that private respondents can be considered as having repudiated petitioners' ownership of the premises by paying the tax on the property in the name of respondent Jose Solis, the same conclusion would be obtained. The lapse of more than twenty (20) years of adverse possession by private respondents is sufficient to confer ownership on them of the disputed portion under the Old Civil Code which requires only ten (10) years of adverse possession. Article 41 of the Old Civil Code provides:

"Sec. 41. Title to land by prescription.- Ten years of adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly, continuously for ten years by occupancy, descent, grants or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual possessor of such land a full complete title, saving to the person under disabilities the rights, secured by the next Section."

Although petitioners' action for quieting of title was filed in May 30, 1967 when the New Civil Code was already in effect, Article 1116 of the New Civil Code provides that "prescription already running before the effectivity of this Code (August 30, 1950) shall be governed by laws previously in force; x x x" which in this case is the aforementioned Section 41 of the Old Civil Code.

Therefore, whatever claim petitioners had over the disputed property had prescribed in view of private respondents' open, actual, peaceful, continuous and adverse possession of the same property for more than thirty years or at the least, for more than twenty (20) years.

ACCORDINGLY, the petition is DENIED. The decision dated May 12, 1977 of the Court of Appeals dismissing the complaint and declaring private respondents Jose Solis and Florencia Dioquino Solis the lawful owners of the eastern portion of the lot described under paragraph 11 of the complaint is hereby AFFIRMED. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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