

JOSE HERMO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ANDRES FLORESCA AND ISIDRO FULGUERAS, RESPONDENTS.

G.R. No. L-45159. October 26, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Once again this Court is asked to review and reverse factual findings of the Court of Appeals; and once again, in application of well established rule, this Court will decline to do so.

An action to quiet title was brought by petitioner Jose Hermo against respondents Andres Floresca and Isidro Fulgueras in the Court of First Instance of Sorsogon.[1] The parties were occupants of adjoining parcels of land; and the dispute involved an area between their holdings over which both were asserting a superior right.

After issues were joined, a relocation survey of the lands in controversy was made by a Court-appointed commissioner. The latter's report, submitted on July 15, 1967, showed that the disputed area actually measured 11,122 square meters, much larger than the parties' original conception of 3,500 square meters. Hermo then moved for leave to amend his complaint so as to allege the correct area, which the Court granted without objection from the defendants.

Hermo grounded his claim to the land on (1) a Deed of Sale executed in favor of his wife, Adriana Marquez, by Pia Ernacio, the land subject thereof being described as having an area of 7,921 square meters; (2) successive tax declarations; and (3) a Deed of Confirmation of Ownership dated July 17, 1967 purportedly executed by respondent Andres Floresca, the predecessor-in-interest of the other respondent, Isidro Fulgueras.

On the other hand, the respondents based their claim over the land in question on [1] a Deed of Absolute Sale executed by Benedicto Esperida on June 30, 1943 in favor of Andres Floresca covering land measuring 17,479 square meters; [2] a Deed of Absolute Sale dated May 23, 1966 by which Floresca conveyed the land to Isidro Fulgueras, the land being described in the deed as measuring 20,000 square meters; and [3] two (2) successive tax declarations in the name of Andres Floresca, and two (2) subsequent declarations in the name of Isidro Fulgueras describing the land as having an area of 20,000 square meters.

The Lower Court rendered judgment in Hermo's favor. While conceding that Floresca's and Fulgueras' documentary evidence "appears to be more credible for it nearly approximates the entire land they claim," the Court accorded greater weight to the testimony of Hermo's witnesses regarding the possession by Hermo's predecessor and Hermo himself from 1922 continuously down to the time of judgment. The Court thus declared Hermo to be the owner of the parcel of land in question by acquisitive prescription under the provisions of Act 190,1 and the Civil Code of 1889.2

This judgment was however reversed on appeal by the Court of Appeals, which opined that the documentary evidence of Floresca and Fulgueras was entitled to greater weight than Hermo's proofs and accordingly declared

Fulgueras as the lawful owner, by prescription, of the disputed land.

Hermo has come to this Court and attributes to the Appellate Court the following errors,¹ to wit:

- 1) its decision is not in accord with the law or with this Court's applicable decisions;
- 2) its conclusions are based on a misapprehension of facts, or mistaken inferences or conjectures; and
- 3) the conclusions drawn by it from the established facts are erroneous.

At once apparent is that the factual findings of the Court of appeals are diametrically at odds with those of the Trial Court, which Hermo claims to be correct. And basic is the rule that the conclusions of fact of a trial court are entitled to great weight, and should not generally be disturbed on appeal, because it is in a better position than the appellate tribunal to examine the evidence directly, and to observe the demeanor of the witnesses while testifying.² Withal, its findings of fact, though entitled to great respect, are not conclusive on the Court of Appeals. In the exercise of its appellate jurisdiction, the Court of Appeals may affirm, reverse, or modify the judgment or order appealed from, and may direct a new trial or further proceeding to be had.³ It is indeed the duty of that Court chiefly though not exclusively to review a Trial Court's findings of fact and correct such serious errors affecting them as may have been properly assigned and as may be established by a re-examination of the recorded evidence.¹ And it is the findings of fact of the Court of Appeals, not those of the trial court, that are as a rule deemed final, and conclusive even on this Court.²

In the case at bar, the Court of Appeals adjudged the Lower Court to be in error in the appreciation of the evidence. It declared, after a review of the record that the proofs of respondents Floresca and Fulgueras were more credible and entitled to greater weight than these adduced by Hermo. It found the testimony of Hermo's witnesses on which the Trial Court had placed much reliance, to be vague, hazy, uncertain, and rehearsed, or referring to land other than that in dispute, and in certain respects not based on direct, personal knowledge. It declared that testimony of this sort could not prevail over public instruments executed with the formalities prescribed by law such as those submitted by the respondents which, moreover, showed an area of land (20,000 sq. m.) closer to the actual measurement thereof (17,759 sq. m.), unlike those of Hermo's documents which referred to a much smaller area (7,921 sq. m.), and which for years he had made no effort whatever to correct.

It thus seems plain that what Hermo would have this Court do is to undertake a second review of the Trial Court's findings of fact, or a review of the Appellate Court's review of those findings. This, as stated at the outset, the Court will not and should not do, absent any serious and important reason to do so,¹ and having been cited to none by the petitioner.

WHEREFORE, the petition is dismissed, and the judgment of the Court of Appeals affirmed in all respects. Costs against petitioner.

SO ORDERED.

Teehankee, C.J., Cruz, Paras, and Gancayco, JJ., concur.

[1] Civil Case No. 480, assigned to Branch II at Gubat, Sorsogon.

1 The Code of Civil Procedure, Sec. 41.

2 Art. 1136 in relation to Arts. 1116, 1117 and 1135.

1 Rollo, p.8

2 Olango v. CFI of Misamis Oriental, 121 SCRA 338; Peo. v. Fernandez, 124 SCRA 248; Peo. v. Grefiel, 125 SCRA 108; Chase v. Buencamino, 136 SCRA 381.

3 Sec. 3, Rule 51, Rules of Court.

1 Secs. 4, 5 and 7, Rule 51.

2 Sec. 2 (second par.), Rule 45, Rules of Court; SEE Vallarta v. IAC, G.R. No. 74957, June 30, 1987 citing numerous cases; Estate of Rodolfo Jalandoni v. CA, 144 SCRA 334, citing Teruñez v. IAC, 134 SCRA 414.

1 Ramos v. Pepsi-Cola Bottling Co., 19 SCRA 289; Bacayo v. Genaro, 135 SCRA; Republic vs. I.A.C., G.R. No. 70513, Oct. 13, 1986; Sacay v. Sandiganbayan, 142 SCRA 594 [1986].

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