

CORAZON PURISIMA, LEELIN PURISIMA, AND BERNARDITA PURISIMA, PETITIONERS-APPELLANTS, V. ROSALIO PURISIMA SUBSTITUTED BY HIS CHILDREN, FEDERICO G. PURISIMA, VIRGINIA P. DELA CRUZ,...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Sought for Our disposition is a Petition for Review[1] under Rule 42 of the Rules of Court. The Petition assails the Decision[2] dated April 29, 2003 of the Regional Trial Court, Branch 17, Batac, Ilocos Norte (“RTC” for brevity) in Civil Case No. 4038-17 for “Recovery of Ownership”, which affirmed the Decision[3] dated March 6, 2002 of the Municipal Circuit Trial Court, Paoay-Currimao, Ilocos Norte (“MCTC” for brevity).

Among the salient facts are those as stated in the RTC’s Decision of April 29, 2003 which are as follows:

“This is a verified Complaint for Recovery of Ownership (Reivindicacion) filed on May 15, 1996 by plaintiff Rosalio Purisima (respondent-appellee here) through counsel Elmer R. Bernardo of the Public Attorney’s Office against defendants Corazon Purisima, Leelin Purisima and [B]ernardita Purisima xxx

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xxx Cirilo Purisima married Pastora Pulido Pasol, who at the time of their marriage, was the mother of a love-child named Ursula Pasol. Cirilo Purisima and Pastora Pulido Pasol had four (4) children named Gualberto, Felipe, Alejandra, and herein plaintiff Rosalio (respondent-appellee) who are all surnamed Purisima.

It appears further that during the subsistence of the marriage of Cirilo Purisima and Pastora Pulido Pasol, Cirilo Purisima begot with his step-daughter Ursula Pasol six (6) children named Paquita, Severino, Mercedes, Bernardo, Porfirio, and Salustiano all surnamed Purisima (the latter being the husband of defendant Corazon Purisima and likewise the respective Father and father-in-law of defendants Leelin Purisima and Bernardita Purisima). xxx

The property (subject property here) now in question is a parcel of land consisting of 124 square meters located at Brgy. 9, San Pedro, Paoay, Ilocos Norte, bounded on the North by Elias Corpuz now Condrado Diaz (Roberto Diaz), on the east by Ursula Pasol (Bernardo Purisima) now Edwin Purisima; on the south by Summer Street and on the West by Long Street.

The parcel of land being claimed by plaintiff Rosalio Purisima (respondent-appellee) is the remaining portion of a parcel of land originally belonged (sic) to Spouses Pastora and Cirilo Purisima which they bought from Mamerto Pobre and which originally consisted of 326 square meters. It was alleged and proved by the plaintiff that northern part of the parcel of land consisting of 202 square meters was sold to Elias Corpuz in two (2) transactions. The first sale consisted of 135 square meters and then additional 67 square meters for a total of 202 square meters was sold to Elias Corpuz with the proceeds applied to the payment of their loan to said Elias Corpuz which loan was incurred in the burial of their illegitimate half-sister Ursula, the mother-in-law of the defendant Corazon Purisima. The 124 square meters thus subject of the instant controversy, is now being

occupied by defendants Corazon Purisima, Leelin Purisima, and Bernardita Purisima.

On the other hand, defendant Corazon Purisima claims that the parcel of land consisting of 306 square meters was given to her by Pastora Pasol on July 20, 1953 as a 'dowry' in consideration of her marriage on November 18, 1951 to Salustiano Purisima, who is an illegitimate grandson of the alleged donor, Pastora Pasol, Salustiano being the son of Ursula Pasol (love child of Pastora, with Pastora's husband Cirilo Purisima.)

Corazon Purisima paid taxes over the original 306 square meters in 1971 under Tax Declaration no. 541057 xxx which is now cancelled by Tax Declaration No. ARP 93-016-00012 covering 202 square meters xxx in the name of Leelin Purisima and Tax Declaration No. 543479 covering 104 square meters xxx in the name of Corazon Purisima.

Defendants further claimed that the 104 square meters now in the possession of Corazon Purisima was mortgaged to her on January 10, 1976 by Felipe Purisima, brother of plaintiff Rosalio Purisima (respondent-appellee) and illegitimate half-brother of Corazon's late husband Salustiano.”[4] (Emphasis Supplied)

During the pendency of the proceedings, respondent-appellee Rosalio Purisima (“respondent-appellee Rosalio” for brevity) died.[5] As a result, Rosalio was substituted by his heirs, namely: Federico G. Purisima, Virginia P. Dela Cruz, Florespina P. Alberto, Eduardo G. Purisima and Maxbel G. Purisima[6] (“respondents-appellees” for brevity).

On March 6, 2002, the MCTC rendered its Decision[7] in favor of respondent-appellee Rosalio. The dispositive portion of the Decision stated:

“In view of the foregoing, judgment is hereby rendered declaring plaintiffs as the owner of 124 square meters, (more or less) bounded on the North by Elias Corpuz now Condrado Diaz (Roberto Diaz); on the East by Ursula Pasol (Bernardo Purisima) now Edwin Purisima; on the South by Summer Street and on the West by Long Street. Defendant Leelin Purisima is hereby directed to peacefully reconvey to plaintiffs the land covered by Tax Declaration No. 93-016-0012; Defendant Bernardita Purisima is hereby ordered to peacefully vacate the property described under Tax Declaration No. 638133 and deliver the same voluntarily to plaintiffs. Further, defendant Corazon Purisima is hereby directed to peacefully vacate the easternmost portion of the property under Tax Declaration No. 637133 and deliver possession thereof to plaintiffs and to reconvey to plaintiffs the 44 square meters she allegedly acquired from Felipe Purisima.

SO ORDERED.”[8]

From this Decision, petitioners-appellants appealed to the RTC. On April 29, 2003, the RTC rendered the assailed Decision[9] which dismissed petitioners-appellants' appeal, and affirmed the MCTC's Decision of March 6, 2002.[10]

Petitioners-appellants then filed the Petition[11] at bench praying as follows:

“WHEREFORE, it is most respectfully prayed of this Honorable Court that the Decision of the Honorable Regional Trial Court be vacated or set aside, that the Decision of the Honorable Municipal Circuit Trial Court be annulled or nullified, and that respondents be ordered not to disturb petitioners their peaceful possession of the subject property.

Petitioners pray for other reliefs just and equitable under the premises.”[12] (Emphasis was made in the original)

Petitioners-appellants raised the following grounds:

“I. THE TRIAL COURTS ERRED IN DECLARING THAT PRESCRIPTION, OR AT LEAST LACHES,

HAS NOT SET IN.

II. THE PROPERTY COVERED BY A DEED OF ABSOLUTE SALE DATED OCTOBER 17, 1951 WAS ERRONEOUSLY CONSIDERED AS PART OF THE PROPERTY COVERED BY ANOTHER DEED OF ABSOLUTE SALE DATED OCTOBER 8, 1957.

III. THE TRIAL COURTS ERRED IN IMPUTING FACTS BASED ON SURMISES NOT PROVEN DURING THE TRIAL.

IV. THE TRIAL COURTS ERRED IN APPLYING THE LAW ON SUCCESSION.”[13]

Contrary to petitioners-appellants’ assigned ground I., petitioners-appellants could not have acquired the subject property by prescription.

Petitioners-appellants had argued as follows:

“7.2. The family of herein petitioners occupied the area donated way back in the year 1957 or more than thirty (30) years prior to the filing of this subject case with the lower court on May 15, 1995.

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7.6. Said donation, even if it was not made in a public instrument, may serve as a basis of acquisitive prescription when, on the strength thereof, the donee has taken possession of the property adversely or in the concept of an owner xxx

7.7. A void donation may be the basis of claim of ownership which may ripen into title by prescription. xxx

7.8. Assuming for the sake of argument but without admitting that the document used as a basis (the donation by reason of marriage), is not valid, the lower courts should have at least applied the principle of prescription or laches.

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7.9.1. Corazon Purisima stayed in the property being claimed as her own starting the year 1957 as proven earlier and even put up their family home.

7.9.2. The property was declared as their own when Corazon Purisima accepted by signing the donation document in 1953.

7.9.3. Felipe Purisima left the property because Corazon Purisima was claiming it as her own and even demolished other houses constructed therein, thus, herein petitioners’ possession is adverse.

7.9.4. The claim was open because from the time they stayed in the property up to the time the subject case was filed against herein petitioners, nobody claimed otherwise.

7.9.5. From the time Corazon Purisima arrived in the area in 1957, her family never left or intended to leave the area, thus her possession is continuous.

7.9.6. Corazon Purisima paid the real estate taxes for the subject property albeit lately.

7.9.7. All of these acts were done by petitioners herein in the concept of an owner for more than thirty (30) years.”[14]

Defeating petitioners-appellants’ arguments however, is that as the records revealed, petitioners-appellants’ possession of the property was by mere tolerance of respondent-appellee Rosalio’s brother Felipe Purisima, who in turn was then occupying the property. Consequently, petitioners-appellants’ possession, no matter how long it continued, did not start the running of any period of prescription in favor of petitioners-appellants.[15]

Petitioners-appellants' possession of the subject property having been by mere tolerance was as also found by the MCTC, and was as affirmed by the RTC, to wit:

“xxx Evidence show that Corazon Asuncion Purisima stayed in the house of Felipe P. Purisima and Nicolasa who were childless. As an in-law, Corazon stayed with her uncle Felipe until September 23, 1980, as a transient. She could not have acquired ownership over the house and lot. She possessed the same liberally from the start upon the tolerance of Felipe who never asked her to pay rentals and in answer to the liberality, tolerance, and gratitude (sic) of Felipe, defendant Corazon presented a document purportedly signed by Felipe who mortgaged to her 124 square meters, the remaining parcel of land unsold to the Corpuz's, in her favor. If it is true that the said parcel of land she now occupies belongs to her by virtue of a dowry in 1953, there is no reason for her to accept the mortgage over the same property by Felipe on January 10, 1976, for in fact if the dowry were true and legal, Corazon will be the mortgagee over the parcel of land belonging to her and Felipe is the mortgagor of a parcel of land not belonging to him. Assuming without admitting that the dowry is legal, Felipe would have no right to mortgage the same as the subject mortgaged property does not belong to him. The witnesses for plaintiff namely: Paquita Salvatiera, full blood sister of Salustiano, the husband of Corazon, testified that there was no such thing as a dowry given to Corazon by their grandson (sic) Pastora as whatever rights they have over the estate of their grandmother had already been sold to cover up expenses during the death of their mother Ursula. In the same vein, Cornelia T. Bagayas testified that Salustiano Purisima, the husband of Corazon does not own any land on the share of Ursula because it was already sold to cover the funeral expenses in the death of Ursula and there is no such dowry given to Corazon and if ever Corazon Purisima stayed in the property since 1957, she was there not as an owner but through the tolerance and liberality of Felipe.”[16] (Emphasis Supplied)

That possession of a property by mere tolerance, such as that of petitioners-appellants, could not ripen into ownership by acquisitive prescription was as similarly pronounced by the Supreme Court in *Vevencia Echin Pabalan, et. al. vs. The Heirs of Simeon A.B. Maamo, Sr.*[17], to wit:

“xxx Since acts of a possessory character executed due to license or by mere tolerance of the owner are inadequate for purposes of acquisitive prescription, petitioners cannot claim to have acquired ownership of the property by virtue of their possession thereof since 1935. Under Articles 444 and 1942 of the old Civil Code, possession of real property is not affected by acts of a possessory character which are merely tolerated by the possessor, or which are due to his license. Granted that long, continued occupation, accompanied by acts of a possessory character, affords some evidence that possession has been exerted in the character of owner and under claim of right, this inference is unavailing to petitioners since Simplecio's continued possession of the property after his defeat in the ejectment suit was clearly upon the tolerance of respondents' predecessors-in-interest.

xxx Inasmuch as possession must be adverse, public, peaceful and uninterrupted in order to consolidate prescription, it stands to reason that acts of a possessory character done by virtue of a license or mere tolerance on the part of the real owner are not sufficient. It has been ruled that this principle is applicable not only with respect to the prescription of the dominium as a whole, but, to the prescription of right in rem. Considering that Article 1119 of the present Civil Code also provides that '(a)cts of possessory character executed in virtue of license or by mere tolerance of the owner shall not be available for the purposes of possession,' the error petitioners impute against the CA for applying the new Civil Code provisions on prescription is more apparent than real. Then as now, possession must be en concepto de dueño or adverse in order to constitute the foundation of a prescriptive right. If not, such possessory acts, no matter how long, do not start the running of the period of prescription.” (Emphasis Supplied)

Moreover, contrary to petitioners-appellants' assigned grounds II., III., and IV., records revealed that the subject property, which consisted of about 124 square meters of land, still belonged to Pastora Pasol (“Pastora” for brevity). This is because Pastora and her children sold only 202 square meters of land to a certain Elias Corpuz as

was reflected in a “Deed of Absolute Sale”[18] dated October 8, 1957. Consequently, respondent-appellee Rosalio, who was Pastora's son, had a right to inherit the subject property from Pastora. All of these matters were as also found by the MCTC, as was affirmed by the RTC, by the following:

“xxx out of the 202 square meters sold by the Purisima's to Corpuz, the 21.73 square meters belonging to the heirs of Ursula was included, such that only 180.27 square meters of the property belonging collectively to Pastora's legitimate children, Gualberto, Felipe, Rosalio, and Alejandria was sold. It is thus clear that the remaining 123.997 square meters or when rounded 124 square meters which is not covered by the sale to Corpuz lawfully belongs to the legitimate children of Pastora Pasol, namely: Gualberto, Felipe, Alejandria, and herein plaintiff Rosalio. As Rosalio's (defendant-appellee) co-heirs are already dead, Rosalio has a right over the same 124 square meters parcel of land which remained unsold, subject however, to the rights of the heirs of his siblings Gualberto, Felipe and Alejandria, to the total exclusion of the heirs of Ursula from whom Salustiano, husband of Corazon, descended.

xxx

As to the preponderance of evidence, the plaintiff was able to prove to the satisfaction of the court that he is indeed entitled to the remaining 124 square meters (more or less) presently occupied by defendants.”[19] (Emphasis Supplied)

Indeed, the factual findings of the MCTC, especially when affirmed by the RTC, are entitled to great weight and respect on appeal, and are in fact accorded finality when supported by sufficient evidence on the record,[20] as in this case.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be just under the circumstances, the following disposition is therefore made on this matter.

WHEREFORE, the Petition is DENIED.

SO ORDERED.

Didican (Chairman) and Dimagiba,[*] JJ., concur.

[*] Acting Junior Member vice J. Paredes per Office Order No. 34-14-RSF dated January 30, 2014.

[1] Rollo, pp. 7-28

[2] Rollo, pp. 36-43

[3] Rollo, pp. 50-67

[4] Rollo, pp. 37-38

[5] Rollo, p. 54

[6] Rollo, p. 54

[7] Rollo, pp. 50-67

[8] Rollo, p. 67

[9] Rollo, pp. 36-43

[10] Rollo, p. 43

[11] Rollo, pp. 7-28

[12] Rollo, pp. 25-26

[13] Rollo, pp. 9-10.

[14] Rollo, pp. 13-18

[15] Arsenio Olegario and Heirs of Aristoteles F. Olegario, represented by Carmelita Guzman-Olegario vs. Pedro C. Mari, represented by Lilia C. Mari-Camba, G.R. No. 147951, December 14, 2009

[16] Rollo, pp. 64-65

[17] G.R. No. 174844, March 20, 2013

[18] Rollo, pp. 91-92

[19] Rollo, pp. 63-67

[20] Spouses Patricio and Myrna Bernales vs. Heirs of Julian Sambaan, et al., G.R. No. 163271, January 15, 2010.

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