

QUINTIN LAGURA AND CRESCENCIA LAGURA, PETITIONERS, VS. ABUNDIO BAGNOL, RESPONDENT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal via Petition for Review under Rule 42 of the Rules of Court on the Decision[1] of the Regional Trial Court (RTC), Branch 50, Loay, Bohol in Civil Case No. 0601 dated August 2, 2013 affirming in toto the Decision[2] of the Municipal Circuit Trial Court of Loay-Alburquerque-Baclayon (MCTC) in Civil Case No. 550 dated June 15, 2012 ordering herein petitioners to vacate the parcel of land covered by OCT No. 41904 situated at Alegria Norte, Loay, Bohol and pay to respondent the amount of P1,000.00 per month for the reasonable use and occupation of the premises from September 7, 2011 until the premises is fully vacated.

The Antecedents

On November 11, 2011, respondent Abundio Bagnol (Abundio) filed with the MCTC an ejectment case[3] against petitioners spouses Quintin and Crescencia Lagura, and their son Vicente Lagura (Vicente) [to be collectively referred to as the Laguras]. Abundio alleged that he is a co-owner of a parcel of land (the subject lot) situated in Alegria Norte, Loay, Bohol with an area of 5,346 square meters and covered by Original Certificate of Title (OCT) No. 41904[4] still in the name of his predecessor-in-interest Sixto Palanas. Abundio's mother Generosa Bagnol (Generosa) acquired the property from the Heirs of Sixto Palanas pursuant to the Extrajudicial Settlement and Nominal Sale[5] (Nominal Sale), whereby the wife and daughter of Sixto Palanas, Celestina Palanas and Anatolia Palanas, respectively, conveyed to Generosa several parcels of land, including the subject lot.

On March 31, 2003, Generosa entered into a Contract[6] with Crescencia. In the said contract, Crescencia bound herself to facilitate the transfer of the properties subject of the Nominal Sale from the name of Sixto Palanas, the original owner, into the name of Generosa. For her part, Generosa undertook in the Contract to sign the necessary deed of sale over the subject lot in favor of Crescencia after the properties subject of the Nominal Sale would be transferred into her name.

After the execution of the Contract, the Laguras immediately took possession of the subject lot. Generosa just allowed their adverse possession expecting that Crescencia would fulfill her obligation soon.

In 2005, Generosa died intestate, thereby leaving her properties, including the subject lot, to her husband and children. Sometime in 2006, Abundio followed-up from Crescencia if the latter already made good her obligation in the Contract to transfer the properties into his mother's name. Crescencia allegedly told him that she was still in the process of accomplishing her undertaking. Subsequently in 2007, Abundio and his co-heirs again made a follow-up with Crescencia on the matter. Crescencia told them that the transfer was already done and was ready for pick-up in Cebu City.

Sometime in April 2011, Vicente caused the fencing of the subject lot. This aggrieved Abundio as he believed that the Laguras had no right to fence the property. The same still belonged to the estate of his mother since the

suspensive condition for the transfer in Crescencia's favor had not yet been complied with. The event led to a barangay proceeding during which the Laguras declared that they would no longer push through with the Contract as they had already spent so much for the same. The barangay conciliation failed and a Certification to File Action[7] was issued. Abundio subsequently sent a letter to the Laguras demanding them to vacate the subject lot and surrender its possession to Generosa's heirs. The Laguras, however, refused to heed the demand, hence the suit.

For their part,[8] the Laguras averred that their possession of the subject lot was not by Generosa's mere tolerance. On the contrary, they possess the property as lot owners after Generosa and her husband Vivencio Bagnol delivered its possession to them by virtue of a consummated sale. The Laguras claimed that when the contract was entered into, the parties' intention was to sign a contract of sale. However, the execution of the document was withheld in order to guarantee that Crescencia would really facilitate the transfer of the properties covered by the Nominal Sale to Generosa. The parties agreed that the consideration for the sale would be P57,000.00. However, Crescencia paid only P5,000.00 to Generosa and withheld the rest of the amount which would be used to defray the expenses for the execution of the transfer. Generosa, however, already surrendered OCT No. 41904 to the Laguras. Unfortunately, the certificate of title was burned during the fire that engulfed Spouses Lagura's house. The loss of said title was reported to the Register of Deeds of Loay Bohol.[9]

After the Contract was signed, Crescencia obtained the certifications required for the transfer of the properties from Sixto Palanas to Generosa; paid the capital gains, documentary stamp and estate taxes due on the transactions; and settled the realty taxes on the property.[10] After Crescencia accomplished these things, Generosa and her husband delivered the possession of the subject lot to the Laguras and signed an unnotarized deed of sale. The Laguras then openly and continuously possessed the property. They fenced, built structures and harvested fruits thereon, and administered the same through Vicente.

When Crescencia, however submitted the requirements to the Register of Deeds to process for the transfer of registration of the lands, she was informed that she had to present all the titles mentioned in the Nominal Sale. Crescencia requested Generosa to give her the other titles but the latter could not locate these. When Generosa died, Crescencia requested Abundio and his siblings to deliver the titles to her so she could process the transfer. Crescencia also requested Abundio and his co-heirs to sign the affidavits required for the release of the clearance from the Department of Agrarian Reform (DAR). However, Abundio refused to cooperate and instead, filed the ejectment suit. Upon the parties' respective positions, the MCTC ruled in Abundio's favor. It declared that the contract between Generosa and Crescencia was a contract to sell. Generosa, thus, retained title of ownership over the subject lot since the suspensive condition regarding the transfer of the properties had not yet been complied with. As Crescencia had not yet fulfilled her promise to transfer the properties subject of the Nominal Sale to Generosa, the latter or her heirs did not yet have the obligation to sell the subject lot to Crescencia. Crescencia, therefore, had no basis to consider the same as already sold to her. The dispositive portion of the MCTC's decision reads, viz.:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered directing defendants to:

- Vacate the parcel of land covered by OCT No. 41904 situated at Alegria Norte, Loay, Bohol;
- Pay the amount of P1,000.00 per month from September 7, 2011 until they have fully vacated the premises, for the reasonable use and occupation of the same.

SO ORDERED.[11]

The Laguras appealed to the RTC but the latter court affirmed the MCTC's decision in toto. They sought reconsideration but the RTC denied their motion.[12] Aggrieved, they brought the matter to Us for review,

claiming that:

I

THE REGIONAL TRIAL COURT COMMITTED AN ERROR IN CLAIMING THAT PETITIONERS' POSSESSION OVER THE LOT WAS BY MERE TOLERANCE OF RESPONDENT;

II

THE REGIONAL TRIAL COURT COMMITTED AN ERROR IN NOT HOLDING THAT RESPONDENT IS NOT A REAL PARTY IN INTEREST TO FILE AN UNLAWFUL DETAINER SUIT AGAINST RESPONDENT;

This Court's Ruling

The petition is unimpressed with merit.

On the first error, the Laguras basically contended that their possession of the property was not by mere tolerance as no lease, whether express or implied, existed between the parties. Instead, their possession was by virtue of the actual delivery made by Generosa and her husband pursuant to a sale contract. The Laguras claimed to have a better right to possess the subject lot because, allegedly, the same was already sold and delivered to them. Generosa already gave them the certificate of title and also executed an unnotarized deed of sale in favor of Crescencia, although the documents got burned.

The contentions are devoid of merit.

The existence of a lease is not the only way by which the possession of the property could be characterized as one by tolerance. In this case, the Laguras' possession of the subject lot was still by tolerance for such was allowed by Generosa on account of their transaction. To be more specific, the property occupied was subject of a contract to sell between Generosa and Crescencia.

Contrary, however, to the Laguras' postulate, the aforesaid contract was not a contract of sale but only a contract to sell. In a contract of sale, the title to the property passes to the vendee upon the delivery of the thing sold; while in a contract to sell, ownership is, by agreement, reserved in the vendor and is not to pass to the vendee until full payment of the purchase price. Otherwise stated, in a contract of sale, the vendor loses ownership over the property and cannot recover it until and unless the contract is resolved or rescinded; whereas in a contract to sell, title is retained by the vendor until full payment of the price.[13]

The following provisions in the document confirm that ownership of the property remained in Generosa, thus:

That the second party is interested to buy one of those parcels of lands, designated as parcel no. 5, OCT no. 41904;

That in consideration thereof, the SECOND PARTY shall shoulder all the expenses for the transfer of all the properties subject matter of the sale in favor of the FIRST PARTY, the expenses shall become a part of the sale of the property in favor of the SECOND PARTY, the consideration of which is FIFTY SEVEN THOUSAND PESOS (P57,000.00), therefore whatever balance is still available after the properties shall have been transferred in favor of the FIRST PARTY, the SECOND PARTY shall pay the same to the FIRST PARTY;

That the FIRST PARTY hereby pledge that she will sign the deed of sale in favor of the SECOND PARTY, after the properties shall have been transferred in the name of the FIRST PARTY.[14]

A careful reading of the above stipulations confirms that the intent of the parties was to enter into a contract to sell. It was explicitly provided in the Contract that Crescencia had not yet bought the property as she was still

interested to buy the same. Before the sale could be concluded, she still had to shoulder all the expenses for the transfer of the properties into Generosa's name; and if the expenses for the transfer would not amount to the agreed consideration of P57,000.00, she also had to pay to Generosa whatever balance there may be after deducting such expenses.

The last paragraph of the contract explicitly states that Generosa will sign the deed of sale only after the properties shall have been transferred into her name. The fulfillment of this condition does not even automatically vest ownership in Crescencia since a deed of sale still has to be executed by Generosa. Clearly, then, the intent was to reserve ownership in Generosa until Crescencia shall have fulfilled the conditions in the contract.

Since no ownership was transferred to Crescencia, the Laguras' occupation of the subject lot was merely tolerated by Generosa. When Generosa's heirs withdrew their tolerance by reason of Crescencia's failure to fulfill her obligation, they could very well recover the possession of the property through an ejectment suit, specifically for unlawful detainer. On the part of the Laguras, they had no right to retain the subject lot. As occupants of the subject lot upon Generosa's tolerance or permission, they were necessarily bound by an implied promise that they will vacate upon demand.[15]

As for Generosa's act of delivering the certificate of title to Crescencia, the circumstance could not be adversely construed against the former for the same was necessary in order that the latter could transfer the said title into Generosa's name. Anent the alleged execution of an unnotarized deed of sale by Generosa in favor of Crescencia, this claim was not only unsubstantiated; but also implausible, given the clear condition in the contract that the transfer must first be accomplished before a deed of sale would be executed.

Going now to the second error, the Laguras contended that Abundio had no cause of action against them as he was not a real party-in-interest and his claim of being Generosa's heir was not supported by proof. The Laguras invoke the case of *Heirs of Yaptinchay v. Del Rosario*[16] (*Yaptinchay case*) in arguing that Abundio had to have himself judicially or extrajudicially declared first as heir of Generosa and Vivencio Bagnol, or have the property partitioned and adjudicated to him, before he could bring the suit.

The contention is still unmeritorious.

First, the issue was never previously raised by the Laguras. This Court cannot now, for the first time on appeal, pass upon this issue. Basic considerations of due process impel that questions raised on appeal must be within the issues framed by the parties. Points of law, theories, issues and arguments not adequately brought to the attention of the lower court need not be, and ordinarily will not be considered by a reviewing court as they cannot be raised for the first time on appeal.[17] In *Aldemita v. Heirs of Silva*,[18] the belated invocation of the ruling in the *Yaptinchay case* was not allowed by the Supreme Court. The pertinent portion of the said decision is quoted as follows, viz.:

The petitioner insists that the 54 respondents claiming to be the heirs of the deceased Melquiades Silva must first establish their status as legal heirs through a special proceeding in order to prosecute the instant case as real parties-in-interest. xxx

As earlier pointed out, petitioner did not raise said issue when he filed his Answer. xxx Petitioner did not complain in the RTC about the capability of the Heirs of Melquiades Silva in his Position Paper. It is only after the case had already been submitted for decision of the RTC that the issue on the capacity of the Heirs was raised through a new counsel. xxx petitioner's motion is without merit, as said ground was raised belatedly. [Emphasis and underscoring supplied.]

Second, in the *Yaptinchay case*, the complaint for annulment and/or declaration of nullity of certain certificates of title was dismissed for failure of therein petitioners to demonstrate any proof or even a semblance that they had

been declared the legal heirs of Spouses Yaptinchay. In stark contrast, the Laguras in this case have categorically admitted in their pleadings that Abundio was the son of Generosa. In their Answer, they admitted Abundio's allegation that the latter's mother was Generosa.[19] Further, the Laguras themselves also pleaded in their Position Paper that:

12. xxx defendant spouses Lagura requested Abundio Bagnol, son of Generosa Bagnol, and his siblings to deliver the titles mentioned in the Nominal Sale to process the transfer of the properties;

13. Since there were affidavits to be signed before a DAR Clearance is released, he and his co heirs were also requested to sign such affidavit. xxx[20]

There, thus, lies no qualms in the Laguras' recognition and admission that Abundio was a son and heir of Generosa. The allegations in their pleadings were formal judicial admissions that were conclusive upon them. Such allegations require no further proof in accordance with Section 4 of Rule 129 of the Rules of Court, which reads:

SEC. 4. Judicial admissions. — An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

On account of their judicial admission, there was no more need for any prior declaration of Abundio's heirship, or the presentation of proof therefor. Judicial admissions made by parties in the pleadings, in the course of the trial, or in other proceedings in the same case are conclusive and no further evidence is required to prove them. Moreover, they cannot be contradicted unless it is shown that they have been made through palpable mistake, or that they have not been made at all.[21] In this case, the Laguras did not even attempt to contradict their admission.

WHEREFORE, the Petition is DENIED. The Decision of the Regional Trial Court (RTC), Branch 50, Loay, Bohol in Civil Case No. 0601 dated August 2, 2013 is hereby AFFIRMED.

SO ORDERED.

Hernando, Chairperson and [*]Lopez, JJ., concur.

[*] Vice Justice Marie Christine Azcarrage-Jacob per Office Order No. 01-15-GTI dated January 22, 2015.

[1] Rollo, pp. 18-20.

[2] Rollo, pp. 82-88.

[3] See Complaint, rollo, pp. 62-64.

[4] Rollo, pp. 66-70.

[5] Rollo, pp. 71-73.

[6] Rollo, pp. 74-75.

[7] Rollo, p. 76.

[8] See Position Paper of the Laguras, rollo, pp. 22-34.

[9] Entry No. 2011001943 dated September 5, 2011, rollo, p. 70.

[10] See documents in rollo, pp. 35-57.

[11] Rollo, p. 88.

[12] Rollo, p. 21.

[13] See *Heirs of Bernabe v. Court of Appeals*, G.R. No. 154402. July 21, 2008.

[14] Rollo, p. 74.

[15] See *Monasterio-Pe v. Tong*, G.R. No. 151369. March 23, 2011.

[16] G.R. No. 124320. March 2, 1999.

[17] *City of Cebu v. Heirs of Rubi*, G.R. No. 128579. April 29, 1999.

[18] G.R. No. 166403. November 2, 2006.

[19] See the allegation in respondent's comment, p. 103. This was never disputed by the petitioners.

[20] Rollo, pp. 25-26.

[21] See *Palma Development Corporation v. Municipality of Malangas, Zamboanga del Sur*, G.R. No. 152492. October 16, 2003.

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