

ESTELITA F. ENRIQUEZ, JULIETA F. ENRIQUEZ, ROMEO F. ENRIQUEZ, TITA E. VELASCO, DERTICIO F. ENRIQUEZ, ROSITA RUSTE VDA. DE ENRIQUEZ AND POLICARPIO ENRIQUEZ HEREIN REPRESENTED BY ...

Ponente: INTING, J.

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INTING, J.:

Before Us on appeal is the Decision[1] dated July 27, 2009 of the Regional Trial Court of Zamboanga City, Branch 14, rendered in Civil Case No. 5289, which is a complaint for Declaration of Nullity of Ownership over Lot Nos. 3564, 3566 and 3567, with prayer for Temporary Restraining Order (TRO) and/or Preliminary Injunction.

The facts[2] of the case are as follows:

On August 5, 2002, the plaintiffs-appellees Estelita F. Enriquez, Julieta F. Enriquez, Romeo F. Enriquez, Tita E. Velasco, Derticio F. Enriquez, Rosita Rusta Vda. De Enriquez and Policarpo Enriquez represented by Abelardo F. Enriquez (Abelardo) filed a complaint for declaration of nullity and cancellation of OCT No. P-3,588, declaration of ownership over lot nos. 3564, 3566 and 3567, with prayer for temporary restraining order and/or preliminary injunction, before the court a quo against defendants-appellants Heirs of Florencio F. Enriquez, represented by Armando Enriquez and the Municipal Trial Court of Zamboanga City, Branch 4.[3]

The plaintiffs-appellees and the late Florencio Enriquez (Florencio) are the heirs of the late Faustino W. Enriquez (Faustino) who died on August 9, 1956, while defendants-appellants are the heirs of the late Florencio.

The plaintiffs-appellees allege that in 1948, Faustino bought three agricultural parcels of land from one Ong Yok in consideration of the sum of P5,000.00. With the intention of dividing the three parcels of land among his children, Faustino placed the name of his eldest son, Florencio, as the vendee of the subject properties in the Escritura de Venta.[4]

Pursuant to the original plan of his father, Florencio executed a deed of sale on July 18, 1952 over the subject properties in favor of the plaintiffs-appellees.[5]

Due to an inadvertent omission of Tita Enriquez's name in the Escritura de Venta, Florencio executed an affidavit on September 28, 1956 to rectify such omission.[6]

Plaintiffs-appellees allege that they have been in open and continuous possession of the subject properties and that they have cultivated the same by planting coconut trees and other minor crops therein.[7]

In 1989, after his brother, Romeo Enriquez, left for abroad, Abelardo took charge in the cultivation of the parcels of land and distributed the proceeds among his siblings.[8]

To the surprise and dismay of Abelardo, a letter from the counsel of the defendants was sent to him demanding that he vacate the subject properties.[9]

Upon verification with the Register of Deeds, Abelardo discovered that Lot 3564 was issued a free patent by the Department of Environment and Natural Resources (DENR).[10]

The plaintiffs-appellees argue that the DENR has no jurisdiction over Lot 3564 since it is not part of the public domain having been owned by one Ong Yuk as early as 1931. Furthermore, they attest that they have been paying realty taxes over the subject properties.[11]

On the other hand, the defendants-appellants aver in their answer that it was the late Florencio Enriquez who originally cultivated the subject properties. The plaintiffs-appellees never cultivated the same except for Abelardo who started cultivating a portion of it sometime in 1986 when Florencio died. The defendants-appellants allege that Abelardo misled them into believing that he and the rest of the plaintiffs-appellees own the same.[12]

The defendants-appellants also contend that prior to the demand to vacate sent to Abelardo, they already informed the latter of their intent to repossess the subject properties which were registered in the name of the late Florencio Enriquez.[13]

They opine that Florencio filed an application for free patent over Lot 3564. They deny the allegation of plaintiffs-appellees that the latter paid the realty taxes over the subject properties. They insist that the original tax declaration was in the name of Florencio and that, as his heirs, they were the one who paid the realty taxes.[14]

After the issues were joined, trial ensued.

On August 7, 2002, plaintiff-appellee Abelardo Enriquez testified before the court a quo that the subject properties were purchased by his late father, Faustino Enriquez from Ong Yok. His father entrusted the subject properties to his older brother, the late Florencio Enriquez (Florencio), because he was knowledgeable with regard to the preparation of documents for sale. Although Faustino delegated the ownership of the subject properties to Florencio, they were intended for Abelardo and his seven (7) siblings (co-plaintiffs), namely: Derticio, Policarpo, Abelardo, Wilfredo, Estelita, Romeo, Julieta and Tita. Thereafter, on July 18, 1952, Florencio executed an Escritura de Venta in favor of the plaintiffs-appellees. On September 28, 1956, Florencio executed an affidavit to rectify the inadvertent omission of Tita's name in the Escritura de Venta.[15]

Abelardo further testified that he and his siblings have been occupying the subject properties since their childhood days. The first time he found out about the Original Certificate of Title (OCT) No. P-5,388 with Free Patent No. 097332-97-5423P was sometime in June 2002 when defendant-appellant Armando Enriquez (Armando) showed it to him and laid claim over the subject properties. Thereafter, Abelardo filed an ejectment suit against Armando and the other defendants-appellants to prevent them from entering the subject properties.[16]

On July 31, 2003, Abelardo was once again called to the witness stand to substantiate his application for writ of preliminary injunction and the allegations in his complaint. Abelardo testified that notwithstanding the temporary restraining order (TRO) issued by the court a quo against the defendants-appellants, the latter still entered the subject properties and harvested coconuts therein. He reported the incident to the barangay kagawad and the police station. On cross-examination, Abelardo testified that the subject properties were all registered in the name of Florencio Enriquez through a tax declaration. Florencio administered the subject properties from 1952 until his demise in 1987. Thereafter, Romeo Enriquez (Romeo), Abelardo's younger brother, took over the administration of the subject properties. In 1988, Romeo left the Philippines to work abroad. Consequently, Abelardo began administering the subject properties. According to Abelardo, the tax declarations remained in the name of Florencio and were not transferred in his name due to lack of funds and they were still applying for title to the subject properties.[17]

Joaquin Enriquez, witness for the plaintiffs-appellees, testified that he is the brother of Florencio while the

plaintiffs-appellees are their half-brothers and half-sisters. The subject properties were bought by his father, a Chinese citizen, and were intended for the latter's second family (plaintiffs-appellees). The subject properties were placed in the name of his brother, Florencio, because he was the eldest and a Filipino citizen. Joaquin and his siblings, including his half-brothers and half-sisters, were provided with a parcel of land by their father. Among the children of Faustino, Florencio was given the largest parcel of land with sixteen (16) hectares of land in Upper Mabuhay in Barangay Baluno.[18]

On cross-examination, Joaquin testified that his father is an alien whose Chinese name is Wee Han Chu. Florencio took charge over the administration of the subject properties and collected the proceeds from the harvest. When their father died, partition took place and their respective shares in their father's estate were delivered to them. Thereafter, Romeo became the administrator of the subject properties.[19]

On October 3, 2003, defendant-appellant Armando Enriquez (Armando) testified that he is the son of the late Florencio Enriquez and the grandson of the late Faustino Wee Enriquez. Lot 3564 is covered by Original Certificate of Title (OCT) No. T-5388 while Lots 3566 and 3567 is covered by tax declarations, all registered in his father's name. His father became the owner of the subject properties upon application thereof through DENR. They came to know that the subject properties were registered in the name of their father in 1997 through a letter sent by the DENR. At present, he is occupying the subject properties together with some workers of the plaintiffs-appellees. He has a house in Lot 3564, which is adjacent to Lot 3567. From the time he was born in 1952, he, along with his parents, were already occupying the subject properties. His father supervised the area from 1952 to 1986. Upon his father's demise, his uncles talked to his mother and asked if they could manage the subject properties in her behalf. Out of respect, her mother relented. When they transferred from the subject property to Cawit, they did not intend to move out permanently. They stayed in Cawit temporarily because they attended the wake of their father. When Armando's father was still alive, he collected the income from the coconut harvest of the subject property. He would give a portion of the income to his brothers and sisters who were, at the time, still young. When Abelardo took over, he and the rest of the plaintiffs-appellees collected the income. Armando's mother was given a meager share in the income, around P200.00 to P300.00. In 1999, Armando received a report from his friends and neighbors that the plaintiffs-appellees were cutting down trees in the subject property. When he confronted them, they insisted that they are the owners of the subject property. He went to the barangay to have the matter settled. However, plaintiffs-appellees did not attend the scheduled hearing. He was also informed by the barangay that they cannot attend to the dispute and that he should forward the matter to the court. Despite the demand to vacate, plaintiffs-appellees refused to leave the subject property. Consequently, Armando was constrained to file an ejectment suit against them.[20]

On March 4, 2004, Nora Sta. Maria Enriquez (Nora) testified before the court a quo that she is the widow of the late Florencio Enriquez. They married in 1943 and lived in Ayala, Zamboanga City. During their marriage, they were able to acquire the subject properties from one Vicente Barrios Ong Tuy. They occupied the subject properties in the 1950's and introduced improvements therein such as coconuts, mangoes and santol. They also built a family house therein made out of wood with galvanized roofing. They hired her cousin, Julries Maulani to assist in supervising the property when her husband was at work. When Nora's husband passed away in 1986, Abelardo, her brother-in-law, took over the administration of the subject property. Abelardo agreed to give Nora a share in the income of the harvest from the subject property. He gave her share in the income during his first year as administrator of the subject property. In the years that followed, however, Abelardo stopped giving Nora her share in the income. Abelardo told her that he was still paying for the debt incurred from the purchase of Florencio's coffin. Nora left the subject property when her husband died because she was already very old and her children were living in Cawit for work.[21]

Nora also testified that she and her late husband did not sell the subject properties to anyone nor did they sell or transfer the same to another person.[22]

Lastly, Christopher B. Babaran testified before the court a quo that he is the Land Management Officer of the Department of Environment and Natural Resources (DENR). He is in charge of supervising the issuance of administrative patents, such as homestead free patent and sales patent. He informed the court that the late Florencio Enriquez applied for free patent before the Bureau of Lands with regard to Lots Nos. 3564, 3566 and 3567. It was later on amended by Florencio to exclude Lots Nos. 3566 and 3567. Thereafter, an ocular inspection was conducted by the Deputy Land Inspector of the Regional Office after the Provincial Environment and Natural Resources Office (PENRO) in Zamboanga del Sur indorsed said application and a recommendation was likewise transmitted to the Central Office. Subsequently, an original certificate of title was issued after the signing of the DENR Secretary. It was then transmitted to PENRO and Free Patent No. 097332-97-5423P was issued to Florencio over Lot No. 3564.[23]

Christopher further testified that the heirs of Florencio Enriquez also applied for free patent over Lot Nos. 3566 and 3567 which is still being processed by the DENR.[24]

On July 27, 2009, the court a quo rendered the assailed decision in favor of plaintiffs-appellees. The dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

1)

Declaring plaintiffs as true and absolute owners of Lot Nos. 3564, 3566 and 3567;

2)

Declaring Free Patent No. 097332-97-5432P, and Original Certificate of Title No. P-5,388 issued pursuant thereto, null and void;

3)

Declaring the Writ of Preliminary Injunction previously issued in so far as it enjoined the defendants from entering and occupying the subject premises, permanent; and

4)

Declaring Special Civil Action No. 6256-571 pending before the Municipal Trial Court, Branch 4, Zamboanga City, academic.”[25]

On August 12, 2009, the defendants-appellants filed a motion for reconsideration before the court a quo which the latter subsequently denied on October 5, 2009.

Hence, this appeal.

The defendants-appellants bring forth the following issues:

I

WHETHER OR NOT THE ESCRITURA DE VENTA WAS ADMISSIBLE AS EVIDENCE;

II

WHETHER OR NOT THE COURT A QUO ERRED IN DECLARING PLAINTIFFS-APPELLEES AS THE TRUE AND ABSOLUTE OWNERS OF LOTS 3564, 3566 AND 3567; AND

III

WHETHER OR NOT THE COURT A QUO ERRED IN DECLARING FREE PATENT NO. 097332-97-5432 AND OCT P-5388 IN THE NAME OF DEFENDANTS-APPELLANTS AS NULL AND VOID.

Our Ruling

The appeal is meritorious.

In the case at bar, plaintiff-appellee Abelardo testified that his father, Faustino, bought the subject properties from one Ong Yok. His brother, Florentino, allegedly acted as the dummy-vendee in the supposed sale transaction.

"Q:

How did Florencio Enriquez get to own these lots?

A:

It was our father who bought this property intended for all of us.

Q:

You said this lot is owned by Florencio Enriquez. How did Florencio Enriquez get to own this lot?

A:

My father bought it.

Q:

From whom did your father buy?

A:

From Ong Yok.

Q:

And then what happened after your father bought this property?

A:

Our father entrusted to our elder brother, inasmuch as he is knowledgeable to prepare the documents for the sale.”[26]

Joaquin Enriquez, witness for the plaintiffs-appellees and brother of the late Florencio, readily admitted during cross-examination that his father, Faustino, is a Chinese citizen.

"Q:

How about your father, whom you said was the one who bought the property, do you know the citizenship of your father?

A:

A Chinese. x x x”[27]

The sale of the subject properties between Ong Yok and Faustino was consummated in 1948, when the 1935 Constitution was still in effect. Under Section 5, Article XIII of the 1935 Constitution, save in cases of hereditary succession, no private agricultural land shall be transferred or assign except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines. Hence, Faustino is prohibited from acquiring land in the Philippines, being a Chinese citizen. T

he Supreme Court, in *Ting Ho vs. Teng Gui*, elucidated in this wise:

“With regard to Lot No. 418, Ts-308, Article XIII, Section 1 of the 1935 Constitution states:

Section 1. All agricultural timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution... (Emphasis supplied)

Our fundamental law cannot be any clearer. The right to acquire lands of the public domain is reserved for Filipino citizens or corporations at least sixty percent of the capital of which is owned by Filipinos. Thus, in *Krivenko v. Register of Deeds*, the Court enunciated that:

...Perhaps the effect of our construction is to preclude aliens, admitted freely into the Philippines from owning sites where they may build their homes. But if this is the solemn mandate of the Constitution, we will not attempt to compromise it even in the name of amity or equity. We are satisfied, however, that aliens are not completely excluded by the Constitution from the use of lands for residential purposes. Since their residence in the Philippines is temporary, they may be granted temporary rights such as a lease contract which is not forbidden by the Constitution. Should they desire to remain here forever and share our fortunes and misfortunes, Filipino citizenship is not impossible to acquire.

In the present case, the father of petitioners and respondent was a Chinese citizen; therefore, he was disqualified from acquiring and owning real property in the Philippines. In fact, he was only occupying the subject lot by virtue of the permission granted him by the then U.S. Naval Reservation Office of Olongapo, Zambales. As correctly found by the CA, the deceased Felix Ting Ho was never the owner of the subject lot in light of the constitutional proscription and the respondent did not at any instance act as the dummy of his father. x x x”[28]

Assuming arguendo that Faustino did buy the subject properties from one Ong Yok and Florentino supposedly acted as the vendee as claimed by the plaintiffs-appellees, We cannot uphold the sale for being void and against public policy. As a Chinese citizen, Faustino was prohibited from acquiring lands in the Philippines. Applying the Ting Ho ruling, Faustino was never the owner of the subject properties and Florentino never acted as the dummy of his father.

There is no evidence to prove that the subject properties were previously and privately-owned by one Ong Yok. There were no muniments of title to prove his ownership over the subject properties. Be that as it may, regardless of whether or not Ong Yok previously owned the subject properties, the fact of the matter is that Faustino was an alien, and as such, he is, by law, proscribed from acquiring the subject properties.

Moreover, the Escritura de Venta deserves scant consideration as it is unsigned. With regard to the admissibility of the affidavit of Faustino and Nora, the plaintiffs-appellees failed to establish the genuineness and due execution of the document.

The Supreme Court, in *Cequena v. Bolante*, had occasion to rule in this regard, viz:

“Petitioners dispute the CA’s ruling that the affidavit was not the best evidence of their father’s ownership of the disputed land, because the ‘affiant was not placed on the witness stand.’ They contend that it was unnecessary to present a witness to establish the authenticity of the affidavit because it was a declaration against respondent’s interest and was an ancient document. As a declaration against interest, it was an exception to the hearsay rule. As a necessary and trustworthy document, it was admissible in evidence. And because it was executed on March 24, 1953, it was a self-authenticating ancient document.

We quote below the pertinent portion of the appellate court’s ruling:

‘While it is true that the affidavit was signed and subscribed before a notary public, the general rule is that affidavits are classified as hearsay evidence, unless affiants are placed on the witness stand (*People’s Bank and Trust Company vs. Leonidas*, 207 SCRA 164). Affidavits are not considered the best evidence, if affiants are available as witnesses (*Vallarta vs. Court of Appeals*, 163 SCRA 587). The due execution of the affidavit was not sufficiently established. The notary public or others who saw that the document was signed or at least [could] confirm its recitals [were] not presented. There was no expert testimony or competent witness who attested to the genuineness of the questioned signatures. Worse, [respondent] denied the genuineness of her signature and that of her mother xxx. [Respondent] testified that her mother was an illiterate and as far as she knew her mother could not write because she had not attended school (p. 7, *ibid*). Her testimony was corroborated by Ma. Sales Bolante Basa, who said the [respondent’s] mother was illiterate.’

The petitioners’ allegations are untenable. Before a private document offered as authentic can be received in evidence, its due execution and authenticity must be proved first. And before a document is admitted as an exception to the hearsay rule under the Dead Man’s Statute, the offeror must show (a) that the declarant is dead, insane or unable to testify; (b) that the declaration concerns a fact cognizable by the declarant; (c) that at the time the declaration was made, he was aware that the same was contrary to his interest; and (d) that circumstances render improbable the existence of any motive to falsify.

In this case, one of the affiants happens to be the respondent, who is still alive and who testified that the signature in the affidavit was not hers. A declaration against interest is not admissible if the declarant is available to testify as a witness. Such declarant should be confronted with the statement against interest as a prior inconsistent statement. The affidavit cannot be considered an ancient document either. An ancient document is one that is (1) more than 30 years old, (2) found in the proper custody, and (3) unblemished by any alteration or by any circumstance of suspicion. It must on its face appear to be genuine. The petitioners herein failed, however, to explain how the purported signature of Eduarda Apiado could have been affixed to the subject affidavit if,

according to the witness, she was an illiterate woman who never had any formal schooling. This circumstance casts suspicion on its authenticity.

Not all notarized documents are exempted from the rule on authentication. Thus, an affidavit does not automatically become a public document just because it contains a notarial jurat. Furthermore, the affidavit in question does not state how the ownership of the subject land was transferred from Sinforoso Mendoza to Margarito Mendoza. By itself, an affidavit is not a mode of acquiring ownership.”[29]

Contrary to the contention of the plaintiffs-appellees, just because the assailed affidavit is notarized does not automatically make it a public document. Adopting the ruling in *Cequena*, affidavits are at best hearsay unless the affiants are called to the witness stand to testify regarding the veracity of such document. In this case, the sole living and remaining affiant, Nora Enriquez, during her testimony, denied signing the affidavit and contends that the name, ‘Maria Leonara’, written in the affidavit is not her real name.

Verily, the plaintiffs-appellees failed to prove the genuineness and due execution of the affidavit. The notary public was not presented before the court *a quo* to testify. Nor were there any expert and competent witness presented by the plaintiffs-appellees to prove the veracity of the document. As such, the affidavit cannot be deemed admissible.

On the other hand, the defendants-appellants sufficiently established their ownership over the subject properties. Florentino, the defendants-appellants’ predecessor-in-interest, applied for free patent over the subject properties. Subsequently, the DENR granted the application and issued Free Patent No. 097332-97-54232. Pursuant thereto, Lot No. 3564 was originally registered on July 18, 1997 under Original Certificate of Title (OCT) No. P-5,388 in the name of the Heirs of Florencio Enriquez.

The title of the defendants-appellants must be upheld, following the ruling in *Ting Ho*, which states:

“On the other hand, the respondent became the owner of Lot No. 418, Ts-308 when he was granted Miscellaneous Sales Patent No. 7457 on January 3, 1978, by the Secretary of Natural Resources “By Authority of the President of the Philippines,” and when Original Certificate of Title No. P-1064 was correspondingly issued in his name. The grant of the miscellaneous sales patent by the Secretary of Natural Resources, and the corresponding issuance of the original certificate of title in his name, show that the respondent possesses all the qualifications and none of the disqualifications to acquire alienable and disposable lands of the public domain. These issuances bear the presumption of regularity in their performance in the absence of evidence to the contrary.

Registration of grants and patents involving public lands is governed by Section 122 of Act No. 496, which was subsequently amended by Section 103 of Presidential Decree No. 1529, viz:

Sec. 103. Certificate of title pursuant to patents.—Whenever public land is by the Government alienated, granted or conveyed to any person, the same shall be brought forthwith under the operation of this Decree. It shall be the duty of the official issuing the instrument of alienation, grant, patent or conveyance in behalf of the Government to cause such instrument to be filed with the Register of Deeds of the province or city where the land lies, and to be there registered like other deeds and conveyance, whereupon a certificate of title shall be entered as in other cases of registered land, and an owner’s duplicate issued to the grantee. The deeds, grant, patent or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land, but shall operate only as a contract between the Government and the grantee and as evidence of authority to the Register of Deeds to make registration. It is the act of registration that shall be the operative act to affect and convey the land, and in all cases under this Decree registration shall be made in the office of the Register of Deeds of the province or city where the land lies. The fees for registration shall be paid by the grantee. After due registration and issuance of the certificate of title, such land shall be deemed to be registered

land to all intents and purposes under this Decree.

(Emphasis supplied)

Under the law, a certificate of title issued pursuant to any grant or patent involving public land is as conclusive and indefeasible as any other certificate of title issued to private lands in the ordinary or cadastral registration proceeding. The effect of the registration of a patent and the issuance of a certificate of title to the patentee is to vest in him an incontestable title to the land, in the same manner as if ownership had been determined by final decree of the court, and the title so issued is absolutely conclusive and indisputable, and is not subject to collateral attack.

Nonetheless, petitioners invoke equity considerations and claim that the ruling of the RTC that an implied trust was created between respondent and their father with respect to the subject lot should be upheld.

This contention must fail because the prohibition against an alien from owning lands of the public domain is absolute and not even an implied trust can be permitted to arise on equity considerations.

In the case of *Muller v. Muller*, herein the respondent, a German national, was seeking reimbursement of funds claimed by him to be given in trust to his petitioner wife, a Philippine citizen, for the purchase of a property in Antipolo, the Court, in rejecting the claim, ruled that:

Respondent was aware of the constitutional prohibition and expressly admitted his knowledge thereof to this Court. He declared that he had the Antipolo property titled in the name of the petitioner because of the said prohibition. His attempt at subsequently asserting or claiming a right on the said property cannot be sustained.

The Court of Appeals erred in holding that an implied trust was created and resulted by operation of law in view of petitioner's marriage to respondent. Save for the exception provided in cases of hereditary succession, respondent's disqualification from owning lands in the Philippines is absolute. Not even an ownership in trust is allowed. Besides, where the purchase is made in violation of an existing statute and in evasion of its express provision, no trust can result in favor of the party who is guilty of the fraud. To hold otherwise would allow circumvention of the constitutional prohibition.

Invoking the principle that a court is not only a court of law but also a court of equity, is likewise misplaced. It has been held that equity as a rule will follow the law and will not permit that to be done indirectly which, because of public policy, cannot be done directly. x x x"[30]

With regard to Lot Nos. 3566 and 3567, the tax declarations were all registered in the name of Florencio Enriquez. Moreover, it is established through the testimonies of both parties that Florencio was in possession of the subject property from 1952 until his demise in 1987. The registration of the tax declaration under his name coupled with his open and continuous possession over the subject property establishes the defendants-appellants' rightful ownership over the same. As held in *Republic v. Burgos*:

"Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's bona fide claim of acquisition of ownership."[31]

On the other hand, the possession of the plaintiffs-appellees over the subject properties was not adverse but by

mere tolerance. Acts of possessory character executed due to license or by mere tolerance of the owner are inadequate for purposes of acquisitive prescription.[32] Possession, to constitute the foundation of a prescriptive right, must be en concepto de dueño, or, to use the common law equivalent of the term, that possession should be adverse, if not, such possessory acts, no matter how long, do not start the running of the period of prescription.[33]

WHEREFORE, the appeal is GRANTED. The Decision dated July 27, 2009 of the Regional Trial Court of Zamboanga City, Branch 14, rendered in Civil Case No. 5289 is REVERSED and SET ASIDE.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] Penned by Hon. Reynerio G. Estacio; Records, pp. 212-218.

[2] As culled from the records.

[3] Records, pp. 1-6.

[4] Ibid.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] Ibid.

[12] Records, pp. 40-45.

[13] Ibid.

[14] Ibid.

[15] TSN, August 7, 2002; pp. 1-15.

[16] Ibid.

[17] TSN, July 31, 2003; pp. 1-35.

[18] TSN, August 20, 2003; pp. 23-37.

[19] Ibid.

[20] TSN, October 3, 2003; pp. 1-44.

[21] TSN, March 3, 2004; pp. 1-19.

[22] Ibid.

[23] TSN, July 15, 2004; pp. 1-22.

[24] Ibid.

[25] See footnote 1.

[26] TSN, August 7, 2002; p. 6.

[27] TSN, August 20, 2003; p. 26.

[28] G.R. No. 130115; July 16, 2003.

[29] G.R. No. 137944; April 6, 2000.

[30] See footnote 28.

[31] G.R. No. 163254; June 1, 2007.

[32] Abalos v. Torio; G.R. No. 175444; December 14, 2011.

[33] Ibid.

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