HEIRS OF MAXIMO RAPADA AND CRISPINA CAÑETE, NAMELY: ELDA RAPADA LOREDO, JOSE R. ALAMEDA, PRECIOSA R. NOBIS, GODFREY R. CAPANAS, DANESA R. ZAMORA AND ROLANDO R. ALAMEDA, AND ATTO...

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HERNANDO, J:

Before Us is an appeal interposed by plaintiffs-appellants from the May 6, 2005 Decision[1] dismissing the Complaint in Special Civil Action No. 98-114 for Declaration of Co-ownership, Partition and Damages before the Regional Trial Court (RTC), Branch 66 of Barotac-Viejo, Iloilo, the dispositive portion of which states:

> WHEREFORE, finding that the complaint lacks evidentiary support in this present action for partition against the defendants, the same is ordered dismissed with costs against the plaintiffs.
>
> The court finds no evidentiary basis to grant the prayer for damages counter-claimed by the defendants and the same is likewise dismissed.
>
> The defendants counter-claim to order plaintiffs to deliver to them the possession of Lot 882 and 883 confine only to the plaintiffs who have their houses on the property, considering however that the relief sought partakes a nature of an ejectment suit which is not allowed in Sec. 7, Rule 6 of the Rules of Civil Procedure, the same is likewise dismissed.
>
> SO ORDERED.

Plaintiffs-appellants assert that the RTC erred in dismissing the Complaint for lack of sufficient support in this partition case and thus pray for the reversal of the assailed judgment.

The Antecedents

On January 16, 1998, plaintiffs initiated a Complaint[2] for the declaration of co-ownership, partition and damages against defendants over two parcels of land known as Lot No. 882, containing an area of 2.8339 hectares, and Lot No. 883,[3] containing an area of .3162 hectares. Both properties are located in Botongon, Estancia, Iloilo.

According to plaintiffs, said properties were owned by Spouses Maximo and Crispina Rapada, the common predecessors of both parties. Thus, upon the couples' demise, all of the children of Maximo and Crispina, herein plaintiffs and Antonio Rapada, should have inherited the properties equally and not only by Antonio Rapada, the predecessor of the defendants. However, despite exhausting earnest efforts towards an amicable settlement since all of the parties belong to the same family, the defendants remained steadfast and excluded plaintiffs in the registration of the said parcels of land.[4]

In their Answer,[5] defendants denied that plaintiffs are also the owners of the property since they (defendants) trace their ownership of the property not from Maximo and Crispina Rapada. In effect, said spouses from where the plaintiffs claim their supposed ownership, were never the owners of the property.

According to defendants, Antonio Rapada originally acquired Lots Nos. 882 and 883 from Remedios Inventor, Patricio Inventor, Josefina Inventor, Agripina Inventor, Loreto Inventor and Florenda Inventor by way of sale which document was notarized in September 1943 under the Notarial Registry of Notary Public Felix S. Ravena as Doc. No. 8, Page No. 2, Book No. II, Series of 1943. If ever some plaintiffs are occupying some parts of the properties, it was by tolerance and out of humanitarian considerations. However, plaintiffs cannot inherit from Antonio Rapada and hence, have no right to claim partition.[6]

The Ruling of the RTC

After both parties had adduced their respective evidence, and after the conduct of an ocular inspection over the property,[7] the court a quo found no basis to grant the Complaint filed by plaintiffs. The RTC opined that the plaintiffs failed to adduce sufficient evidence that they are indeed entitled to the possession and ownership of the subject property as they claimed, thus:

> From the testimonial and documentary evidences submitted by the parties, the court finds and holds that defendant Rebecca Balles has a preponderance of evidence sufficient enough to declare her as lawful owner of Lot 882 and 883. The claim of the plaintiffs that the property are still part of the estate of the deceased Maximo Rapada and Crispina Canete are still co-owned by all the plaintiffs and the herein defendants has no support documentary evidence. Although there is a plan issued to plaintiff Jose Alameda (Exh. "D"), however, it is only a sketch of Lot 882 and 883 which can easily be obtained from the Bureau of Lands or the CENRO. There is nothing in the certification which states therein that Lot 882 and 883 were surveyed for Maximo Rapada and Crispina Cañete or heirs. The certification only states that the sketch plan is a true and correct plan as plotted based on the records of Cadastral Case No. 633-D Estancia Cadastre in the files at the CENRO Sara, Iloilo. While plaintiffs' Exh. "E", "F" and "G" try to show that the plaintiffs filed a protest to the Free Patent Application of Rebecca Balles before the CENRO, hwoever, there was nothing to show that their protest was given due course nor the free patent proceedings was finally adjudicated. In fact, in Exh. "E", it was clearly stated that the protest will be dropped by reason of the information given by one of the plaintiffs that their conflict with Rebecca Balles over Lot 882 and 883 will be brought to court and will be settled judicially.

The court a quo discoursed that the evidence presented by Rebecca Balles, which consisted of tax declarations and tax receipts in the name of her predecessors dating back since 1946, preponderated in her favor that said property was acquired by her father, Antonio Rapada and not by Maximo Rapada and Crispina Cañete. Moreover, said tax declarations were revised continuously until the property was declared in the name of Rebecca Balles, who became the sole owner of the property upon her siblings' conveyance of their rights over the property to her. The trial court also found that defendants were also in possession of the property considering that some of them had houses standing on the subject property.

Assignment of Errors and Issues

On May 6, 2005, the RTC found no merit in plaintiffs' Complaint and thus, proceeded to dismiss it. Likewise, for want of evidentiary basis, the counterclaim for damages and delivery of possession by defendants was dismissed by the trial court.

Consequently, plaintiffs were constrained to file this appeal anchored on the following assignment of errors, to wit:

> a. The decision of the trial court is null and void for failure to state the law on which its findings of facts are based required in Section 1, Rule 36 of the 1997 Rules of Civil Procedure;
>
> b. The trial court erred in appreciating the evidence in favor of defendants-appellees in particular, in ruling that defendants-appellees inherited the subject properties from their deceased father Antonio Rapada, who purchased Assessor's Lot No. 16 and 17 from the Inventors situated at Barangay Tanza-Estancia, Iloilo,

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> Philippines; and
>
> c. The trial court erred in dismissing plaintiff-appellant Complaint and in refusing to grant the reliefs prayed for the said plaintiffs-appellants.

and at the same time presented the following issues for determination by this Court, thus:

> 1. Whether or not Cadastral Lot No. 882 and No. 883 declared as private agricultural land situated at Barangay Botongon, Poblacion, Estancia, Iloilo, acquired by way of acquisitive prescription of the deceased Spouses Maximo Rapada and Cristina Cañete;
>
> 2. Whether or not Assessors Lots No. 16 and 17 situated in Barangay Tanza, Estancia, Iloilo claimed by defendant Rebecca Rapada Valle by way of absolute sale from the declared owners Inventor are the same lots subject for partition by the parties to this case;
>
> 3. Whether or not Cadastral Lot No. 882 and 883 could be the subject of partition among the surviving compulsory heirs of Spouses Maximo Rapada and Crispina Cañete parties to this case; and
>
> 4. Whether plaintiffs-appellants and defendants-appellees are entitled to damages.[8]

Upon the other hand, in refutation of the claims of plaintiffs-appellants that the trial court erred in its judgment dismissing the Complaint, defendants-appellees assert that the appeal should be denied since the judgment of the court a quo was based on evidence disclosed by the records.

Based on the Brief submitted by the plaintiffs-appellants, the issue that needs resolution is whether or not the court a quo erred in its judgment that plaintiffs-appellants failed to prove that they are entitled to a share in the property.

We resolve to deny this appeal.

As correctly ruled by the trial court, the plaintiffs-appellants failed to prove by preponderance of evidence that Maximo Rapada and Crispina Cañete were the original owners of the property. The earliest tax receipt in the name of Antonio Rapada presented by the defendants was wayback 1960[9] and subsequently renewed during the following years.[10] In all these receipts, there was no mention at all that Maximo Rapada was the declared tax owner. If indeed Maximo Rapada was the declared owner of the property in 1927, surely, plaintiffs-appellants could have presented more documentary evidence to prove this claim, which can be in the form of tax declarations and tax receipts, as what the defendants-appellees had done.

In the case of Imuan vs. Cereno,[11] the Supreme Court ruled that although tax declarations or realty tax payments are not conclusive evidence of ownership, they are nevertheless good indicia of possession in the concept of an owner because no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession, thus:

> Moreover, immediately after the sale of the property to the Spouses Cereno, they declared the property in their names for taxation purposes and since then religiously paid the taxes due on the property. Petitioners admitted that they knew that the Spouses Cerenos are the ones paying the taxes; yet, they never challenged the same for a long period of time which clearly establishes respondents' claim as owners of the property. Jurisprudence is clear that although tax declarations or realty tax payments 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. As is well known, the payment of taxes, coupled with actual possession of the land covered by the tax declaration, strongly supports a claim of ownership.

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Here, evidence evidently disclosed that as early as 1946, the subject properties were already declared for taxation purposes in the name of Antonio Rapada,[12] which tax declarations were then renewed in his name for the succeeding years. The disputed properties were possessed by his children as shown in the residential houses and other improvements constructed thereon, until it was transferred in the name of Rebecca Rapada Valles. Moreover, payment of taxes were made periodically by the defendants-appellees and previously, by their predecessors-in-interest. The dictum as to the payment of taxes and actual possession as good indicia of their ownership applies to the defendants-appellees.

We thus find no cogent reason to reverse the findings of the trial court dismissing the Complaint for plaintiffs-appellants' failure to prove by preponderant evidence that they are entitled to the reliefs prayed for in their Complaint. Plaintiffs-appellants had the duty to prove by competent evidence that their rights over the properties are superior over that of the defendants-appellees, which however they failed to do.

WHEREFORE, this appeal is DENIED. The Decision dated May 6, 2005 of the Regional Trial Court, Branch 66 of Barotac Viejo, Iloilo dismissing Special Civil Action No. 98-114 is AFFIRMED in toto. Costs against plaintiffs-appellants.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

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[1] Decision penned by Judge Rogelio J. Amador.

[2] Complaint; RTC records, pp. 1-6. See also Amended Complaint dated October 16, 1998; RTC records, pp. 55-60 and Second Amended Complaint dated March 16, 1999; RTC records, pp. 83-90.

[3] Erroneously referred as Lot No. 882 in the Complaint; RTC records, p. 2.

[4] Complaint; RTC records, pp. 1-6.

[5] Answer dated May 14, 1998; RTC records, pp. 18-21.

[6] Ibid.

[7] Ocular Inspection Report; RTC records, pp. 254-256.

[8] Assignment of Errors, Issues, Brief for the Plaintiffs-Appellants; Rollo, pp. 46-67; 49-50; 55-56.

[9] Official Receipt No. 2506794 dated November 26, 1960 for RTC records, p. 285.

[10] See copies of official receipts; RTC records, pp. 285-308.

[11] G.R. No. 167995, September 11, 2009.

[12] Exhibit "13" and "14"; RTC records, pp. 314-315.

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