

NIEVEZ PLASABAS, JOINED BY HER HUSBAND, MARCOS MALAZARTE, PLAINTIFFS-APPELLANTS, VS. DOMINADOR LUMEN AND AURORA AUNZO, DEFENDANTS-APPELLEES.

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HERNANDO, J:

Before this Court is an appeal from the Decision[1] dated March 11, 2010 of the Regional Trial Court (RTC), Branch 24 of Maasin, Southern Leyte in Civil Case No. R-1949, an action for Recovery of Title to Property with Damages.

The Antecedents:

The disputed property here is a parcel of land situated in Canturing, Maasin, Southern Leyte containing an area of approximately 2.6360 hectares, as declared in Tax Declaration No. 3587 in the name of herein plaintiff-appellant Nievez Plasabas. The land is bounded on the north by Palermo Espere's lot, on the east by Cipriano Plasabas' lot, on the south by Canturing River and on the west by San Rafael River.

On September 11, 1974, plaintiffs-appellants filed a complaint[2] before the trial court for Recovery of Title to Property with Damages against herein defendants-appellees alleging that plaintiff Nievez Plasabas[3] is the absolute owner of the disputed property which she inherited from her parents and that she and her husband had been in actual, open, public, continuous, adverse and peaceful possession of it from the time she inherited the same up to the filing of the instant action. However, their peaceful possession was interrupted sometime in September 1970 when defendants-appellees occupied a portion of the lot and enjoyed the produce therefrom. They demanded from defendants-appellees to vacate the property but to no avail, prompting them to institute the instant action. They further averred that judgment be rendered confirming their rights and legal title to the subject property and ordering the defendants to vacate the occupied portion and to pay moral damages, attorney's fees and litigation expenses.

In their Answer, defendants-appellees vehemently denied plaintiff-appellants' allegations. They claimed that the disputed property once formed part of the intestate estate of the late Francisco Plasabas. After Francisco's death, said estate was extrajudicially partitioned by his seven children, namely: Basilio (defendant Aurora Aunzo's greatgrandfather), Irene Lumen (defendant Dominador Lumen's mother), Priscilla, Leoncio, Ramon, Dionesio and Irene. However, the disputed lot was segregated from the estate and was divided equally among the seven siblings. The 1/7 share of Basilio of the disputed lot was inherited by defendant Aurora Aunzo after the death of her father Esteban (son of Basilio). Irene Lumen's 1/7 share was inherited by defendant Dominador Lumen and which was subsequently sold by the latter to defendant Aurora Aunzo. In effect, defendant Aurora Aunzo owned and possessed 2/7 portion of the disputed lot. Leoncio Plasabas' 1/7 share was sold to Jovita Talam, plaintiff Nievez Plasabas' maternal grandmother. Contrary to plaintiffs-appellants' assertion, Nievez did not inherit the 1/7 share from her parents but from her grandmother, who donated the same to Nievez. Thus, plaintiffs-appellants are only entitled to 1/7 share of the disputed lot and not the entire property. By way of counterclaim, they prayed for moral and exemplary damages, attorney's fees and litigation expenses.

On April 30, 1975, the trial court appointed commissioners to conduct an ocular inspection and survey on the disputed land. Thereafter, the said commissioners submitted their report[4] with sketch map distinctly specifying the respective properties of the parties under litigation. Based on the report, the disputed land is the property claimed by the defendants-appellees which forms part of the land claimed by the plaintiffs-appellants.

During trial, plaintiffs-appellants presented as witnesses plaintiff-appellant Marcos Malazarte, Ricardo Plasabas (grandson of Francisco Plasabas), Eugenio Plasabas (grandson of Francisco Plasabas) and Justo Montederamos (tenant of the disputed land). All of them declared that the disputed property and the land adjacent to it are owned and possessed by plaintiffs-appellants together with the brothers and sisters of plaintiff-appellant Nievez Plasabas. Said land was declared in the name of Nievez Plasabas under Tax Declaration No. 3587[5]. They also claimed that the disputed land was originally owned by Leoncio Plasabas which represented his share in the estate of Francisco Plasabas. Leoncio then sold the land to Nievez' grandmother, Jovita Talam. However, plaintiff-appellant Marcos Malazarte admitted that no tax declaration had been issued in the name of Jovita Talam. Witness Justo Montederamos likewise testified that during his tenancy and that of his father's, defendants-appellees had never disturbed plaintiffs-appellants' possession of the disputed land.

On the other hand, defendants-appellees, through the testimonies of Candido Plasabas, Roman Capistrano, Loreto Mesa, and defendants-appellees Dominador Lumen and Aurora Aunzo, insisted that the disputed land was partitioned equally among the seven children of Francisco Plasabas so that only 1/7 portion of the land is owned by plaintiffs-appellants.

Defendant-appellee Aurora Aunzo testified that she and her predecessors-in-interest had been in possession of the property for forty-two years. She inherited the 1/7 share of Basilio Plasabas because the latter sold it to her father Esteban. However, she admitted that she had no documentary evidence of the said transaction between her father and Basilio and what she had was only a document of sale for the improvements of the land. She averred that the disputed lot was declared separately for taxation purposes from the portion which she possessed, as illustrated in the court-appointed commissioners' sketch map. She further alleged that the portion she occupied was declared in her name and that she had been paying the taxes thereon.

On March 11, 2010, the trial court rendered the appealed Decision[6] which dismissed the instant case for failure of the plaintiffs-appellants to prove their case by preponderance of evidence. The trial court ratiocinated that the instant action was actually for quieting of title to property even though the complaint was captioned as Recovery of Title to Property". Thus, it was necessary for the plaintiff-appellants to prove their legal or equitable title to the disputed lot but unfortunately, they failed to do so.

Hence, this appeal.

The Assigned Errors:

1. THE HONORABLE COURT A QUO ERRED IN FINDING THAT THE INSTANT COMPLAINT FILED BY THE PLAINTIFFS-APPELLANTS IS AN ACTION FOR QUIETING OF TITLE;
2. THE HONORABLE COURT A QUO ERRED IN DECIDING THAT PLAINTIFFS-APPELLANTS FAILED TO ESTABLISH THEIR CASE BY PREPONDERANCE OF EVIDENCE; AND
3. THE HONORABLE COURT A QUO ERRED IN DISREGARDING THE ENTITLEMENT OF PLAINTIFFS-APPELLANTS FOR THE PAYMENT OF MORAL DAMAGES, ATTORNEY'S FEES, LITIGATION EXPENSES AND COSTS OF LITIGATION.

The Court's Ruling:

The petition is bereft of merit.

On the first issue, well-settled is the rule that what determines the nature of the action are the allegations in the complaint.[7] In the instant case, plaintiffs-appellants' Complaint[8] specifically alleges that they had been deprived by the defendants-appellees of the possession of a portion of the disputed property which they owned and that they asks for the confirmation of their rights and legal title thereto and for the defendants-appellees to vacate the occupied portion. Stated differently, plaintiffs-appellants are claiming ownership over the disputed property and seeking the recovery of its full possession. It becomes apparent therefore that the instant action is an accion reivindicatoria and not an action to quiet title. Accion reivindicatoria seeks the recovery of ownership and includes the jus possidendi, jus utendi, and jus fruendi as well,[9] whereas, in an action to quiet title, the plaintiff alleges that he has a legal or at least an equitable title over the real property in dispute, and that some deed, claim, encumbrance or proceeding beclouds its validity or efficacy.[10] Thus, the RTC erred in ruling that the complaint is one for quieting of title because there is nothing in the complaint that alleges that a certain deed, claim, encumbrance or proceeding beclouds plaintiffs-appellants title to the disputed property.

Anent the second issue, in order for an action to recover ownership and possession of real property or accion reivindicatoria to prosper, it is incumbent upon the plaintiff to prove two things: first, the identity of the land claimed by describing the location, area, and boundaries thereof; and second, his title thereto.[11] In this case, although the identity of the disputed property had been sufficiently established, plaintiffs-appellants failed to prove by preponderance of evidence their title to or right of possession over the disputed property. There is nothing in the records that would substantiate their claim of ownership over the disputed land. It must be noted that plaintiff-appellant Nievez Plasabas vehemently claimed that the disputed land was sold by Leoncio Plasabas to her maternal grandmother, Jovita Talam. However, no documentary evidence was ever presented to prove such fact. The tax declarations and tax receipts in the name of Nievez covering the disputed property and allegedly include the portion occupied by the defendants-appellees are not sufficient proof of their title. It has been an established jurisprudence that realty tax payment or the declaration of property for tax purposes alone is not a conclusive evidence of ownership as it must be supported by other effective proofs.[12]

Likewise, plaintiffs-appellants' claim of ownership over the disputed property through acquisitive prescription must fail. As appropriately observed by the RTC, to wit:

xxx"As alleged in the complaint and as testified by Marcos Malazarte, plaintiffs asserted that they have been in actual, open, public, continuous, adverse and peaceful possession of the property since inheriting the same from Plaintiff-Nievez Plasabas' parents (1933) up to the filing of the complaint with respect to the portion possessed by them and up to the year 1970 with respect to the portion possessed by the defendants. However, none of the other witnesses for the plaintiffs corroborates the said declaration in order to establish plaintiffs' acquisition by prescription. In the absence of corroborative testimony, the court cannot give weight and credit to one of the plaintiffs' declaration as it would only be a self serving one."[13]

It bears stressing that in an action to recover real property, the settled rule is that the plaintiff must rely on the strength of his or her title and not on the weakness of the defendant's title. This requirement is based on two reasons: One, it is possible that neither the plaintiff nor the defendant is the true owner of the property in dispute, and two, the burden of proof lies on the party who substantially asserts the affirmative of an issue for he who relies upon the existence of a fact should be called upon to prove that fact.[14] Unfortunately in this case, plaintiffs-appellants utterly failed to prove their title to the disputed land by preponderance of evidence and therefore, there exists no legal ground upon which to declare them the lawful owners and possessors of the disputed property as well as to vest them authority to evict defendants-appellees from the portion of the disputed property which the latter occupied.

WHEREFORE, the instant appeal is DENIED. The Decision dated March 11, 2010 of the Regional Trial Court (RTC), Branch 24 of Maasin, Southern Leyte in Civil Case No. R-1949 is hereby AFFIRMED. No costs.

SO ORDERED.

Maxino,[*] and Quijano-Padilla, JJ., concur.

[*] Acting Senior Member in lieu of Associate Justice Carmelita Salandanan-Manahan who is on official leave per Office Order No. 08-14-ELDS dated March 17, 2014.

[1] Penned by Judge Bethany G. Kapili, Rollo, pp. 74-90.

[2] Records, pp. 1-4.

[3] Plaintiff Nievez Plasabas died during the trial of the case, RTC Decision, Rollo, p. 80.

[4] Records, pp. 48-51.

[5] Exhibit "A", Index of Bill of Exhibits, p. 1.

[6] Id. at note 1.

[7] Delos Reyes v. Sps. Odonez, et al., G.R. No. 178096, March 23, 2011.

[8] Id. at note 2.

[9] Iglesia ni Cristo v. Hon. Thelma Ponferrada, et al., G.R. NO. 168943, October 27, 2006.

[10] Inocencio Y. Lucasan vs. PDIC, G.R. No. 176929, July 04, 2008.

[11] Sps. Decaleng v. Philippine Episcopal Church, et al., G.R. No. 171209, June 27, 2012 citing Spouses Hutchison v. Buscas, 498 Phil. 276, 262 (2005); See also Article 434 of the Civil Code.

[12] Esquivel v. Atty. Eduardo Reyes, G.R. No. 152957, September 08, 2003; Santos v. Santos, et al., G.R. No. 133895, October 02, 2001.

[13] Supra, note 1, p. 90.

[14] Sps. Ronald Hutchison and Valentine Navalle-Hutchison v. Enrique M. Buscas, G.R. No. 158554, May 26, 2005.

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