

THE NEW TESTAMENT CHURCH OF GOD, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, SPS. LAUREANO LUCAS AND CONSUELO GONZALES, THE HON. PRESIDING JUDGE ARTEMIO R. ALIVIA, REGIONAL ...

G.R. No. 102297. July 14, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for certiorari to set aside the Decision of the Court of Appeals in CA-G. R. CV No. 09461 affirming the Decision of the Regional Trial Court, Branch 19, Cauayan, Isabela and its Resolution denying petitioner's motion for reconsideration.

I

On October 26, 1940, respondent Laureano Lucas was issued by the Secretary of Agriculture and Natural Resources Homestead Patent No. 63351 covering a parcel of land situated at Barrio Dadap, Cauayan, Isabela with an area of 11.2329 hectares. Consequently, on July 31, 1946, Original Certificate of Title (OCT) No. I-7270 was issued by the Register of Deeds of Isabela in the name of respondent Laureano Lucas covering said parcel of land.

On June 2, 1950, the Secretary of Agriculture and Natural Resources issued in favor of respondent Laureano Lucas Sales Patent No. V-392 covering a 24.1092-hectare land situated in the same barrio. The title for said tract of land (OCT No. P-1285) was issued in the name of respondent Laureano Lucas by the Register of Deeds of Isabela on October 21, 1950.

On June 19, 1956, petitioner bought from the spouses Fausto Atienza and Cleopatra L. Ordonez a parcel of land with an area of 15.6308 hectares located in Barrio Dadap, Cauayan, Isabela covered under OCT No. P-1252 in the name of the said spouses. Said parcel of land was acquired by the Ordonez couple through a homestead patent. On the basis of said transfer, OCT No. P-1252 was cancelled and Transfer Certificate of Title (TCT) No. 7836 was issued in the name of petitioner.

Claiming that portions of the two parcels of land covered by Homestead Patent No. 63351 and Sales Patent No. V-392 were included in the homestead patent issued to petitioner's predecessors-in-interest, private respondents sought the annulment of petitioner's title insofar as it overlapped with their title.

After trial, the court a quo rendered a decision in favor of private respondents. The dispositive portion of the decision reads:

"1. DECLARING the plaintiffs the lawful owners of all the lands embraced in and covered by OCT Nos. P-7270 and P-1258;

"2. DECLARING the defendant's TCT No. T-7836 null and void and of no legal effect insofar as the same covers portions within the plaintiffs' OCT Nos. P-7270 and P-1258, particularly Lots A, C, D and E (Exh. R),

and ordering the defendant, its agents, representative or any other person acting on its behalf or stead to vacate said lots and to deliver the possession thereof to the plaintiffs;

"3. DECLARING the defendant's title valid only insofar as the same covers lands situated outside the aforementioned titles of the plaintiffs" (Rollo, p.20).

Aggrieved by the decision of the trial court, petitioner appealed to the Court of Appeals.

On February 28, 1989, both petitioner and private respondents, through their respective counsels, agreed to have a relocation survey conducted over the parcels of land covered by TCT No. T-7836, OCT Nos. P-1252, P-1285 and I-7270 to determine whether portions of the parcels of land awarded to respondent Laureano Lucas pursuant to the sales and homestead patents had also been awarded to petitioner's predecessors-in-interest.

On March 7, 1991, the Court of Appeals recalled its resolution for the conduct of a relocation survey because no action had been taken since then. The Court of Appeals resolved to decide the case on the basis of the evidence on record and the applicable law to avoid further delay in the disposition of the case.

On May 31, 1991, judgment was rendered affirming the decision of the trial court. Petitioner's motion for reconsideration was denied. Hence, this petition.

II

The main issue to be resolved is whether petitioner's lands overlap the lands of private respondents.

In *Republic v. Court of Appeals*, 204 SCRA 160 (1991), we held:

"In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. Stated differently, the general rule in civil cases is that a party having the burden of proof of an essential fact must produce a preponderance of evidence thereon. By preponderance of evidence is meant simply evidence which is of greater weight, or more convincing than that which is offered in opposition to it. xxx" (at p. 168).

In the case at bench, private respondents presented three geodetic engineers to testify on the issue of overlapping of titles. On the other hand, petitioner did not present any witness to rebut the findings of the three geodetic engineers. The decision of the Court of Appeals was arrived at based on the testimonial and documentary evidence presented at the trial.

The argument - that the geodetic engineers would naturally testify in favor of private respondents since they were hired by the latter - has no merit. As admitted by petitioner, two of the geodetic engineers were officials of the Bureau of Lands in Isabela and Cagayan. The disputable presumption that official duties have been regularly performed has not been rebutted. Suspicion and conjectures cannot overcome such presumption in the absence of contrary proof.

Lastly, this being a petition for certiorari under Rule 45 of the Revised Rules of Court, this Court will review only errors of law committed by the Court of Appeals. It is not the function of this Court to re-examine the evidence submitted by the parties unless the findings of fact of the Court of Appeals is not supported by the evidence on record or the judgment is based on misapprehension of facts (*Constantino v. Mendez*, 209 SCRA 18 [1992] citing *Hernandez v. Court of Appeals*, 149 SCRA 97 [1987]; *Remalante v. Tibe*, 158 SCRA 138 [1988]).

WHEREFORE, the petition is DENIED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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