

**LUIS CEREMONIA, SUBSTITUTED BY QUIRINO CEREMONIA, ET. AL.,
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND
MAXIMO CELESTRA AS SUBSTITUTED BY ASUNCION CELESTRA,
RESPONDENTS.**

G.R. No. 103453. September 21, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review is the decision of the Court of Appeals in CA-G.R. SP No. 24803, affirming that of the Regional Trial Court of Binangonan, Rizal, Branch 68, in Civil Case No. 399-B, which earlier reversed and set aside the judgment of the Municipal Trial Court of Binangonan in Civil Case No. 2083 for Forcible Entry.

The facts supported by the records are as follows:

On April 17, 1980, petitioner Luis Ceremonia filed a verified complaint for Forcible Entry against respondent Maximo Celestra before the Municipal Trial Court (MTC) of Binangonan, Rizal.[1] According to petitioner, he is a co-owner of a parcel of land located at Bombong, Binangonan, Rizal, with an area of 10,930 square meters more or less, which has been in his possession and/or that of his predecessors-in-interest since 1910. In June 1979, herein respondent allegedly constructed a house on the subject property, thru stealth and strategy and without petitioner's consent thereby effectively depriving him of possession and reasonable compensation on the said property.[2] Despite several demands, petitioner claimed respondent failed and refused to vacate and remove the house. As proof of his ownership and prior possession, petitioner presented several tax declarations on the property.

Respondent as defendant below averred that the land on which he erected his house is owned by him in common with the other heirs of the late Ceremonia Celestra, their predecessor-in-interest. Ceremonia allegedly possessed the disputed property as the owner since time immemorial.[3] Respondent also claimed that the house was constructed with the consent of his co-heirs.

Pending trial of the case, the original parties died. They were properly substituted by their respective heirs.[4]

On September 25, 1982, the MTC conducted an ocular inspection of the property in question thru its appointed commissioner. In his report the commissioner advised the court that:

“It is the opinion of the undersigned that the identity of the lot in question tallies more nearly to the description of the land declared in the name of Geronimo Celestra, the father of the defendant, as can be seen in the records of this case.”[5]

On February 20, 1984, the MTC of Binangonan, based on the evidence presented and the Commissioner's Report, dismissed the complaint.[6]

On appeal, the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 68 reversed the dismissal and remanded

the case to the MTC, disposing as follows:

“WHEREFORE, in view of the foregoing, for lack of factual basis the decision appealed from is hereby set-aside and the Branch Clerk of Court is hereby directed to remand this case to the Municipal Trial Court for further proceedings and to decide this case accordingly.”[7]

On February 24, 1989, the MTC after conducting further proceedings rendered judgment this time in favor of the petitioner and ordered the respondent and all persons claiming under him to vacate the disputed property.[8] Respondent appealed to the RTC of Binangonan, Rizal.

On March 19, 1991, the RTC of Binangonan, Rizal, Branch 68, rendered a decision, the dispositive portion of which reads:

“WHEREFORE, foregoing premises considered, the decision appealed from is hereby reversed and set aside. The complaint is hereby dismissed for plaintiff’s failure to prove his prior possession over the subject property where defendant erected his house.

No costs.

SO ORDERED.”[9]

Petitioner then elevated the matter to the Court of Appeals. The Court of Appeals in a decision dated November 25, 1991, denied the petition for review.[10]

Petitioner’s motion for reconsideration was similarly denied by the Court of Appeals in a resolution dated January 6, 1992.[11] Hence, this petition.

Before us, petitioners assigned only one issue for consideration, to wit:

“THE FACTUAL FINDINGS OF THE RESPONDENT COURT OF APPEALS ARE CONTRARY FROM THAT OF THE TRIAL COURT - HENCE, THE ONLY ISSUE TO BE RESOLVED IS, WHICH FACTUAL FINDINGS ARE SUPPORTED BY EVIDENCE ON RECORD AND THEREFORE, MUST PREVAIL.”[12]

Petitioner claims that the Court of Appeals misapprehended facts, and prays that this Court review the facts of the case.

The general rule is that this Court is not a trier of facts. However, there are exceptions, such as cases where the courts a quo arrived at contradictory factual findings.[13]

The pivotal inquiry in this case is who between the contending parties is entitled to possession of the disputed property.

Settled is the rule that in forcible entry or ejectment cases, the only issue for resolution is physical or material possession of the property involved, independent of any claim of ownership set forth by any of the party litigants. Anyone of them who can prove prior possession de facto may recover such possession even from the owner himself.[14] In forcible entry, the plaintiff is deprived of physical possession of his land or building by means of force, intimidation, threat, strategy or stealth; thus, he must allege and prove prior possession over the disputed property.[15]

In the case at bar, petitioner presented documentary as well as testimonial evidence to establish prior possession over the disputed property. He presented several tax declarations in the name of his predecessor to prove his claim of prior possession. Yet, an examination of the evidence on hand showed that petitioner sadly failed to substantiate that claim.

Firstly, petitioner failed to clearly identify the parcel of land sought to be recovered, and subsequently failed to prove prior possession of the land where, he claimed, respondent had built a house. In civil cases, we need not stress that the party having the burden of proof must establish his cause by a preponderance of evidence.[16] The bare allegation that petitioner's predecessor-in-interest possessed the land in dispute is far from sufficient proof for the Court to rule favorably on petitioner's claim of prior possession. He averred, for example, that the western boundary of the disputed property is adjoined by Francisco Celestra's lot but most of petitioner's documentary evidence showed otherwise. In fact, petitioner and his witnesses referred to the land in dispute as one parcel containing an area of 10,930 square meters while the Geodetic Engineer who surveyed the land, based on the cadastral survey, identified two (2) parcels of land, one with an area of 2,000 square meters more or less, and the other with an area of 8,000 square meters more or less. These observations together with the fact that these lots do not have common boundaries provide sufficient bases to sustain the Court of Appeals' findings that there are in fact two (2) parcels of land. Clearly the self-serving allegations of the petitioner cannot now defeat findings of the appellate court based on his very own documentary evidence. The weight of the evidence that said documents carry does not favor petitioner's cause.

Both the Court of Appeals and the Regional Trial Court found, significantly, that there exist material discrepancies in the technical description of the property in dispute, specifically the western portion thereof, based on petitioner's own documents presented below. As stated by the Court of Appeals in its decision,[17] these discrepancies are as follows:

In Exhibits "A", "B", "C" and "D", which are all tax declarations in the name of the plaintiff, the land covered by these tax declarations is bounded as follows:

"North - by Mamerto Aparato
East - by Francisco Condra
South - by Martin Discutido, and
West - by Francisco Celestra.

"In Exhibit "E" (Deed of Sale), the subject property is adjoined by:

"Sa Hilagaan, lupa ni Mamerto Aparato at may 48 metros ang haba;

Sa Amihan, lupa ni Francisco Celestra at may 22 metros ang haba;

Sa Timogan, lupa ni Martin Discutido na may 47 metros and haba at 30 centimetros;

Sa Habagatan, ay daan na may 54 metros ang haba at napapaloob sa Tax No. 22039, lakip ang 22 puno ng kawayan, na ang 6 nito ay nalilihis sa daang bayan.

"In Exhibit "I", which is the Plan of Lot of 7260, Cad-609-D of Binangonan Cadastre, the property involved is bounded as follows:

"North - by Heirs of Honorio Discutido
East - by a creek
South - by a Barangay road; and
West - by a Barangay road.

"And Exhibit "J" (Plan of Lot 7261 of the same cadastre) points out that the land in question is adjoined by the following:

"North - by Serapio Aparato;
East - by Marcela Sta. Ana;
South - by the heirs of Honorio Discutido, and

West - by a Barangay road.”

While the deed of sale (Exhibit “E”) and the sketch plans (Exhibit “I” and “J”) stated that the western portion of the property is bounded by a barangay road and/or a creek, the tax declarations and petitioner’s own testimony show otherwise. As described in the deed of sale and the sketch plans, the land is adjoined in the west by a barangay road and/or a creek. The land described in the tax declarations is bounded on all directions by person/s or individuals, including the western boundary which is adjoined by the property of Francisco Celestra.

We agree with the Court of Appeals in its conclusions, to wit:

“Based on the foregoing, the Court is of the opinion that the land in dispute is actually two parcels of lot, the same being traversed by a road. The upper portion of the property bounded in the west by a road tallies more with the land described in the deed of sale (Exhibit “E”) and in the sketch plans (Exhibit “J”). Undoubtedly, the land described in Exhibit “E” and as admitted by the plaintiff to be containing an area of 2,000 square meters, more or less, belonged to and is owned by the plaintiff [herein petitioner] and his predecessor-in-interest, they, having adduced sufficient evidence of ownership to establish possession thereof.

However, with respect to the lower portion of the land with an area of 8,000 square meters, more or less, the plaintiff failed to adduce convincing and sufficient evidence of prior possession and ownership over the same.”[18]

Upon re-examination of the findings herein presented, we find no reason to overturn the conclusions of the Court of Appeals, particularly with regard to the lower portion or parcel, where respondent built his house. The calibration of evidence and the relative weight thereof, before reaching our level of review, belongs to the appellate court. Its findings and conclusions cannot be set aside by this Court, unless sufficiently shown that there is no evidence on record to support them.[19] The findings of facts contained in the appealed decision before us are amply supported by the evidence, and the conclusions therein are not clearly against law and jurisprudence. Thus, we find no reason to depart from the decision of the Court of Appeals. Petitioner failed to prove by preponderant evidence his prior possession of that parcel of land in dispute, hence his suit against respondent for forcible entry has been correctly dismissed.

WHEREFORE, the petition is hereby DENIED and the assailed decision of the Court of Appeals is hereby AFFIRMED.

Costs against petitioners.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.

[1] Rollo,p. 33.

[2] Ibid.

[3] Id. at 38.

[4] Supra, note 2.

[5] Id. at 39.

[6] Ibid.

[7] Ibid.

[8] Id. at 33-36.

[9] Id. at 42.

[10] Id. at 30.

[11] Id. at 32.

[12] Id. at 15.

[13] Yobido vs. Court of Appeals, 281 SCRA 1, 7-8 (1997); Philippine Rabbit Bus Lines, Inc. vs. IAC, 189 SCRA 158 (1990).

[14] Gachon vs. Devera, Jr. 274 SCRA 540, 552 (1997).

[15] Benitez vs. Court of Appeals, 266 SCRA 242, 249 (1997).

[16] New Testament Church of God vs. Court of Appeals, 246 SCRA 266, 269 (1995).

[17] Supra note 12 at 26-27.

[18] Id. at 28-29.

[19] Alicbusan vs. Court of Appeals, 269 SCRA 336, 341 (1997).

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