

DOMINGO R. CATAPUSAN, MINELIO R. CATAPUSAN, AND FILOMENO R. CATAPUSAN, PETITIONERS, VS. THE COURT OF APPEALS, VICENTE CATAPUSAN, JR., CIPRIANO CATAPUSAN, GREGORIA CATAPUSAN, SEG...

G.R. No. 109262. November 21, 1996

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The parties in this case are the children of the second marriage (petitioners) and the heirs of the first marriage (respondents) contracted by Bonifacio Catapusan, claiming ownership of a parcel of land located in Wawa, Tanay, Rizal (hereinafter referred to as Wawa lot).[1] The facts:

Bonifacio Catapusan was first married to Narcissa Tanjuatco, the only surviving heir of Dominga Piguing.[2] They had four (4) children namely, Felix, Vicente, Benicio and Loreto.[3] Narcissa died in 1910. In 1927, Bonifacio married Paula Reyes and out of their wedlock petitioners Domingo, Minelio and Filomeno Catapusan were born. Bonifacio died in 1940.[4] Felix, Vicente and Benicio, Bonifacio's sons from the first marriage, died before the institution of this case, survived by their respective widows and children, respondents herein.

The petitioners filed on June 11, 1974, an action for partition of the Wawa lot, which they allegedly co-own with their half-brothers and half-sisters.[5] Petitioners contend that the said lot belongs to their father Bonifacio and should therefore be partitioned among the heirs of the first and second marriages.[6] In support thereof, they presented the tax declarations of the Wawa lot's four (4) adjacent lot owners. These four tax declarations state that each of them bounds on one side the Wawa lot declared in the name of Bonifacio. Stated differently, the petitioner's proof of Bonifacio's ownership of the Wawa lot are the tax declarations of the adjoining lot owners which noted that they each border on one side the Wawa lot declared in the name of Bonifacio.[7]

In their answer with counterclaim, respondents asserted that the Wawa lot was originally owned by Dominga and inherited by Narcissa as her paraphernal property.[8] Upon Narcissa's death, the Wawa lot passed to her four children who are the predecessor-in-interest of respondents. These children possessed and occupied the Wawa lot[9] and secured tax declarations thereon in their names. Respondents likewise alleged that they had been in open, continuous and uninterrupted possession of the said lot for more than 50 years when the suit was filed in 1974.[10] They also invoke laches and prescription against petitioner's action. In response, petitioners argue that their action had not lapsed since respondents repudiated the co-ownership only in 1968.[11] They also questioned the respondents' lack of documentary proof (like "titulo real") with regard to Dominga and Narcissa's title, as the two lived during the Spanish era.[12]

After trial, the lower court dismissed the complaint,[13] declared the respondents as the true and lawful owners of the Wawa lot and granted the counterclaim for P10,000.00 attorney's fees.[14] On appeal, the Court of Appeals (CA) affirmed the RTC, but set aside the award of attorney's fees.[15] Petitioners' motion for reconsideration was denied.[16] Hence, this appeal raising three issues: (1) whether an action for partition includes the question of

ownership; (2) whether Bonifacio had title to the Wawa lot, and (3) whether petitioner's action is barred by laches and/or prescription.[17]

In actions for partition, the court cannot properly issue an order to divide the property, unless it first makes a determination as to the existence of co-ownership. The court must initially settle the issue of ownership, the first stage in an action for partition.[18] Needless to state, an action for partition will not lie if the claimant has no rightful interest over the subject property. In fact, Section 1 of Rule 69 requires the party filing the action to state in his complaint the "nature and extent of his title" to the real estate. Until and unless the issue of ownership is definitely resolved, it would be premature to effect a partition of the properties.[19] Hence, on the first issue we rule in the affirmative.

Anent the second and third issues, it is a basic rule of evidence that the party making an allegation has the burden of proving[20]it by preponderance of evidence.[21] In this case, petitioners' evidence of their father's (Bonifacio) ownership of the Wawa lot are the tax declarations of the adjacent lot owners and the testimonies of some witnesses who merely saw Bonifacio working on the lot. On the other hand, respondents presented tax declarations which indicated that the same lot is owned by their predecessors-in-interest, the children of the first marriage, evidence which carry more weight as they constitute proof of respondents' ownership of the land in their possession. The statement in the neighboring lot owners' tax declarations is not a conclusive proof that Bonifacio owned the surrounded lot. In fact, petitioners cannot show any tax receipts or declarations of their ownership over the same lot. Although tax declarations and receipts are not direct proofs of ownership, yet when accompanied by proof of actual possession for the required period, they become strong evidence to support the claim of ownership thru acquisitive prescription. The possession contemplated as foundation for prescriptive right must be one under claim of title or adverse to or in concept of owner.[22] Possession by tolerance, as in the case of petitioners, is not the kind of possession that may lead to title by prescription. It is the respondents' open, continuous, adverse and uninterrupted possession far beyond the .30 year extraordinary period for acquisitive prescription,[23] coupled with the tax declarations of their predecessors-in-interest, that constitutes a superior weight of evidence that clinched their claim. Moreover, petitioners' bare and unsubstantiated allegation that respondents' tax declarations were fraudulently issued is insufficient to sustain the imputation of fraud considering that good faith is always presumed. Besides, respondents' tax declarations are deemed regularly issued. Being an action involving property, the petitioners must rely on the strength of their own title and not on the weakness of the respondents' claim.[24]

In any event, the second and third issues pertain to factual findings of the courts below. It is a settled doctrine that factual findings of the lower court when supported by substantial evidence on the record is not usually reviewed by the Supreme Court, especially when it is affirmed by the Court of Appeals, as in this case.[25] No cogent evidence appears from the records of this case for us to apply the above doctrine differently. No essential facts were overlooked by the courts below, which if considered, may produce a different outcome. Besides, the credence of the evidence and the assessment of the weight and evidentiary value of the testimonies presented are best appreciated by the trial court judge having observed that elusive and incommunicable evidence of the witness' deportment on the stand.[26]

WHEREFORE, finding no reversible error, the instant appeal is DENIED and the decision of the Court of Appeals is AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

- [1] Rollo, p. 44.
- [2] Rollo, pp. 17, 51.
- [3] Rollo, p. 17.
- [4] Rollo, p. 114.
- [5] Petition, p. 5; Rollo, p. 12.
- [6] Petition, p. 6; Rollo, p. 13.
- [7] Court of Appeals Decision, p. 3; Rollo, p. 46.
- [8] Rollo, p. 218.
- [9] Rollo, p. 221.
- [10] Ibid.
- [11] Rollo, p. 282.
- [12] Rollo, pp. 22, 276-277.
- [13] RTC Decision, dated January 9, 1986, penned by Judge Rafael dela Cruz.
- [14] Rollo, p. 121.
- [15] Rollo, p. 61.
- [16] Rollo, p. 80; CA Resolution promulgated on March 17, 1993.
- [17] Rollo, pp. 11-12.
- [18] *De Mesa v. CA*, 231 SCRA 773.
- [19] *Fabrica vs. CA*, 146 SCRA 250.
- [20] Sec. 1, Rule 131.
- [21] Sec. 1, Rule 133; *Misa v. CA*, 212 SCRA 217.
- [22] *De Jesus v. CA*, 217 SCRA 307.
- [23] Art. 1157, Old Civil Code, now Art. 1134, New Civil Code.
- [24] *Misa v. CA*, supra; *Javier v. CA*, 231 SCRA 498.
- [25] *Meneses v. CA*, 246 SCRA 162; *Salvador v. CA*, 313 Phil. 36.
- [26] *Sapu-an v. CA*, 214 SCRA 701; *Heirs of Juan Oclarit v. CA*, 233 SCRA 239.

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