

VICTORIANO A. CORMERO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS; HON. PEDRO S. ESPINA, PRESIDING JUDGE, RTC 8TH JUDICIAL REGION, PALO, LEYTE, BRANCH 7, OCEANIC REAL ESTATE...

G.R. No. 113652. August 14, 1995

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The instant petition for review on certiorari seeks the reversal of the decision of the Court of Appeals, dated April 15, 1993, in CA-G.R. CV No. 31476 which affirmed in toto the decision rendered by the Regional Trial Court of Palo, Leyte, Branch 7, in Civil Case No. 89-06-087, enjoining petitioner Victoriano A. Cormero and the Register of Deeds of Tacloban City from registering the "Documenta de Venta Absoluta" [Exhibit 2] and the "Orden" [Exhibit 7] evidencing petitioner's right over a parcel of land situated in Tacloban.

The property subject of the instant controversy is a parcel of land known as Lot 67 of the Cadastral survey of Tacloban, with an area of Two Hundred Eighty Two (282) square meters. Lot 67 is now a portion of Lot 3 by virtue of Consolidation Plan PCS--08-000138 and covered by Transfer Certificate of Title No. T-25197 registered in the name of private respondent Oceanic Real Estate, Incorporated, and over which a three-storey building owned by the latter is presently situated.

The antecedents which led to the instant suit are as follows:

Petitioner, as the only surviving heir of his father, the late Victoriano J. Cormero, applied for the registration of two (2) documents namely: "Documento de Venta Absoluta" (Exhibit "2") dated September 2, 1920 and an "Orden" dated September 20, 1920. The "Documento de Venta Absoluta" was entered into between Tan Eng, on behalf of her minor son Con Ty and herself, and Ambrocia Cormero, the great grand aunt of petitioner. The deed, written entirely in Spanish, ceded unto Ambrocia Cormero Lot 67 consisting of 282 square meters for a consideration of two thousand five hundred (P2,500.00) pesos.

Public respondent Register of Deeds of Tacloban denied the application for registration by petitioner on account of the following grounds: (1) Original Certificate of Title No. 376 appears to have been cancelled, (2) the deed and the Orden sought to be registered appeared spurious, and (3) assuming they were genuine, lacked the necessary documentary stamps and official authentication.[1]

The denial was appealed by petitioner to the then National Land Titles and Deeds Registration Administration [NLTDRA]. On May 3, 1989, then Administrator Teodoro G. Bonifacio issued a resolution in Consulta No. 1720 reversing respondent Register of Deeds of Tacloban and held that the deed of sale [Exhibit 2] may be registered.[2]

On the strength of the favorable resolution in Consulta No. 1720, petitioner once again applied for the registration of the two (2) documents with respondent Register of Deeds of Tacloban. However, on June 9, 1989, private

respondent Oceanic Real Estate, Incorporated, represented therein by its Corporate Secretary, Reynaldo V. Lim, filed a petition for prohibition and injunction, with prayer for temporary restraining order (TRO) before the Regional Trial Court of Palo, Leyte.

On the same day, the trial court issued a Temporary Restraining Order enjoining public respondent Register of Deeds of Tacloban from registering the documents presented by petitioner. On June 28, 1989, the court a quo issued a preliminary injunction. A motion for reconsideration was filed by petitioner but the same was denied.

In its petition filed with the trial court, private respondent alleged that it is the registered owner and possessor of Lot 67, including Lots 62-B and 84, of the Cadastral Survey of Tacloban, located at P. Zamora Street, Tacloban City, which lots are now designated as Lot 3 of the Consolidated Subdivision Plan PCS-08-000138 and covered by Transfer Certificate of Title No. T-25917. Private respondent opposed the application for registration of petitioner on the ground that the documents sought to be registered are spurious.

On the other hand, petitioner denied the allegations of private respondent and by way of special and affirmative defense, alleged that he is the only child of Victoriano J. Cormero, who happened to be the nephew of Ambrocia Cormero. Before she died, Ambrocia Cormero allegedly gave the owner's duplicate of OCT No. 376 registered in the name of Lim Diapco and Tan Eng to Victoriano J. Cormero in consideration of the latter being her only surviving relative and for taking care of her. Before Victoriano J. Cormero died, he in turn gave the title of Lot 67 and two (2) others to petitioner and instructed him to cause their registration. In 1988, petitioner went over the records of Cadastral Case No. 2, G. L. R. O. Records No. 56 with the Office of the Clerk of Court and found, among others, the Documento Venta de Absoluta and the Orden. Petitioner then lost no time in executing an affidavit of adjudication, paying the inheritance and real property tax, and thereafter filed an application for registration with the Register of Deeds, but the same was denied.

On December 10, 1990, judgment was rendered by the trial court in favor of private respondent, declaring as follows:

"The Court therefore concludes, that in whatever direction this case is considered, Cormero must be enjoined and permanently barred from registering the falsified 'Documento de Venta Absoluta' and the 'Orden' on grounds, first, the deed of sale being falsified did not transmit any right to the property in question; second, assuming respondent has such right, such was barred by laches, and third, by the same principle of laches, the petitioners have acquired an undefeatable right over the property after 30 years.

WHEREFORE, judgment is hereby rendered:

1. Ordering the issuance of a permanent and final Writ of Injunction, enjoining perpetually public respondent Register of Deeds for Tacloban City and private respondent Victoriano A. Cormero from registering the 'Documento de Venta Absoluta' (Exhibit '2') and the 'Orden' (Exhibit '3');
2. Dissolving the 'Notice of Lis Pendens' filed by respondent Victoriano A. Cormero, which the latter caused to be annotated on the certificate of title of petitioners and the Court hereby directs respondent Register of Deeds for Tacloban City to cancel such entry;

With cost against the respondent.

SO ORDERED."[3]

Petitioner Cormero appealed the aforequoted decision to the Court of Appeals, but respondent court in its Decision, dated April 15, 1993, affirmed in toto the findings of the court a quo.[4] A motion for reconsideration was filed but the same was likewise denied.[5]

Hence, the instant petition.

Petitioner faults respondent Court of Appeals for the following errors:

I

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN DENYING PETITIONER'S APPEAL NOTWITHSTANDING THAT PETITIONER HAS A REGISTRABLE TITLE OVER LOT 67.

II

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT THE "DOCUMENTO DE VENTA ABSOLUTA" AND "ORDEN" DATED SEPTEMBER 20, 1920 ARE VALID AND GENUINE.

III

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT TCT NO. 25197 IN THE NAME OF RESPONDENT OCEANIC WAS SPURIOUS, HENCE NULL AND VOID.

IV

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN DECLARING PETITIONER GUILTY OF LACHES NOTWITHSTANDING EVIDENCE TO THE CONTRARY.

V

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT ANNULING RESPONDENT JUDGE'S DECISION DATED DECEMBER 10, 1990.

At the outset, it is evident from the errors assigned that the petition is anchored on a plea to review the factual conclusions reached by the respondent court. Such task however is foreclosed by the rule that in petitions for certiorari as a mode of appeal, like this one, only questions of law distinctly set forth may be raised. These questions have been defined as those that do not call for any examination of the probative value of the evidence presented by the parties.[6] And when this court is asked to go over the proofs presented by the parties, and analyze, assess and weigh them to ascertain if the trial court and the appellate court were correct in according superior credit to this or that piece of evidence and eventually, to the totality of the evidence of one party or the other, the court cannot and will not do the same.[7] Thus, in the absence of any showing that the findings complained of are totally devoid of support in the record, or that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand, for this court is not expected or required to examine or contrast the oral and documentary evidence submitted by the parties.[8]

Whatever doubts with regard to the authenticity and genuineness of petitioner's "Documento de Venta Absoluta" [Exhibit 2] and "Orden" [Exhibit 7] upon which his claim of title is rooted is already a settled matter. Both the trial court and respondent Court of Appeals unequivocally declared that the two documents were falsified, and this court finds no reason to depart from the same.

As found by the trial court:

"Considering the laboratory findings that the 2 questioned documents were found clearly positive to have erasures and superimpositions and that, all those superimpositions suffers from:

- a.) irregularity of alignment, either vertically or horizontally;
- b.) the superimpositions were of lighter color, the rib impressions were of lighter density than the other original

entries;

c.) some superimpositions were corrected manually by hand;

d.) there were traces of the original entries in-between the superimposed entries, this Court fully concurs with the conclusion of the expert that the original entries and the superimpositions were typed on different occasions, i. e. the documents were not typed continuously. Thus, the 'documento de venta absoluta' and the 'orden' as altered do not speak the original intent and are therefore falsified.

The opinion of counsel for respondent to the contrary notwithstanding that such conclusion does not necessarily follow for there was failure to restore the original entries and therefore no basis of comparing the original with the superimpositions, is an argument that goes against the grain of how things are done in the ordinary course. When the four (4) original entries in the Deed of Sale which called for the identity of the vendee were erased and in the same four places were now superimposed with 'Ambrocia Cormero', it would be unthinkable to accept that the erasures and superimpositions are no proof that would support that those did not change the document. The counsel seems to argue that for all we know, what were erased and what were superimposed were both 'Ambrocia Cormero'. The burden of proving that the alterations did not change the meaning of language of the document rest upon him who offers the altered document:

'SEC. 32 ALTERATIONS IN WRITING: HOW TO EXPLAIN: - The party producing a writing as genuine which has been altered and appears to have been altered after its execution, in a part material to the question in dispute, must account for the alteration. He may show that the alteration was made by another without his concurrence, or was made with the consent of the parties affected by it, or was otherwise properly or innocently made, or that the alteration did not change the meaning or language of the instrument. If he does that, he may give the writing in evidence, but not otherwise.

Inasmuch as the respondent did not explain the alterations, under the aforequoted rule, the evidence submitted could not be accorded the status of a credible evidence. It cannot support the proposition of the respondent that the 'Documento Venta Absoluta' and the 'Orden' are genuine documents which must be accepted on its face value.

On this point, the Court finds and so hold that the 2 questioned documents were falsified and did not transmit to the predecessors-in-interest of herein respondent into whose right he succeeded to, any right to the property."[9]

Affirming the defect in the disputed documents, respondent Court of Appeals thus declared:

"xxx xxx xxx

Neither is the Court inclined to hospitably entertain the appellants' protestations regarding the registrability of the September 9, 1920 Documento de Venta Absoluta (Exhibit '2'). Granted that its forgery had not been determined by the NALTDRA (p. 5, Appellants' Brief), there appears to be little doubt from the NBI Questioned Document Report (Exhibit 'B') and the photographic enlargement of the subject deed (Exhibits 'C-1'; 'C-1-a'; 'C-1-b') that the same, together with the September 20, 1920 'Orden' (Exhibit 'D'; 'D-1-a'; 'D-1-b') had, indeed, been tampered with. Coupled with the changes in the ownership of the land over the years, it is, therefore, sheer wishful thinking on the part of the appellants to even contemplate the allowance of the document's Registration (pp. 11-16, Appellants' Brief)."[10]

The aforequoted findings being consistent with each other and supported by substantial evidence, the same are therefore binding on this court.[11]

Finally, we find no reversible error on the part of respondent Court of Appeals in affirming the denial of petitioner's claim of title on the ground of laches. As defined, laches means the failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have

been done earlier. It is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it.[12]

As confirmed by the trial court, it took petitioner and his predecessors-in-interest 67 years before taking any action to enforce their claim of title over the disputed land, to wit:

"x x x. It must be repeated here that Cormero stepped into the shoes of his father in the right to the property by operation of law as an heir, that Cormero's father stepped into the shoes of his aunt, Ambrocia Cormero when the latter delivered to him the title over Lot 67 before she died in 1922. While it is understandable that Ambrocia could not have registered her deed of sale for she also died in 1922, for one reason or another, it is negligence or omission which is unreasonable and unexplainable why the elder Cormero did not assert his right to Lot 67 in 1922 when the title was delivered to him. There was no action on his part until he died in April 4, 1982, or a long span of 60 years. And respondent Cormero asserted his right to register his muniments of title only on June 9, 1989. Counted from the time that Ambrocia Cormero could have asserted his right in 1922 down to the time her successor stepped into her shoes, this right was only asserted in 1989, 67 years passed." [13]

In previous cases, we have already ruled that the failure of the deceased or his predecessors-in-interest to take steps to assert any rights over the disputed land for 20 years from the date of registration of the title was fatal to their cause of action on the ground of laches.[14]

With more reason, we find herein petitioner's inaction for 67 years inexcusable in the instant case and thus find no error in denying his claim over the disputed property on the ground of laches.

WHEREFORE, finding no reversible error in the appealed decision, the same is hereby **AFFIRMED** in toto and the instant petition is hereby **DISMISSED**.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Mendoza, JJ., concur.

[1] Annex P, Rollo, p. 110.

[2] Annex Q, Rollo, p. 111.

[3] Rollo, pp. 128-129.

[4] Rollo, pp. 147.

[5] Rollo, p. 160.

[6] *Uniland Resources vs. Development Bank of the Philippines*, 200 SCRA 751 (1991) citing *Goduco vs. Court of Appeals, et al.*, 119 Phil. 531; *Hernandez vs. Court of Appeals*, 149 SCRA 67.

[7] *Elayda vs. Court of Appeals*, 199 SCRA 349 (1991).

[8] *Morales vs. Court of Appeals*, 197 SCRA 391 (1991) citing *Santa Ana vs. Hernandez* 18 SCRA 973 (1966).

[9] Rollo, pp. 125-126.

[10] Rollo, p. 156.

[11] *Uniland Resources vs. Development Bank of the Philippines*, supra.; *Gelos vs. Court of Appeals*, 208 SCRA

608 (1992); Republic Cement Corporation vs. Court of Appeals, 198 SCRA 734 (1991).

[12] Marcelino vs. Court of Appeals, 210 SCRA 444 (1992); Solomon vs. Intermediate Appellate Court, 185 SCRA 352 (1990).

[13] Rollo, p. 127.

[14] Ferrer vs. Court of Appeals, 219 SCRA 302 (1993); Gabriel vs. Court of Appeals, 159 SCRA 461 (1988); Caragay-Layno vs. Court of Appeals, 133 SCRA 718 (1984).

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