

ESMUNDO B. RIVERA, PETITIONER, VS. COURT OF APPEALS, AMY ROBLES, PEREGRINO MIRAMBEL AND MERLINA MIRAMBEL, RESPONDENTS.

G.R. No. 115625. January 23, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In deciding this appeal, the Court relies on the rule that a party who has the burden of proof in a civil case must establish his cause of action by a preponderance of evidence. When the evidence of the parties is in equipoise, or when there is a doubt as to where the preponderance of evidence lies, the party with the burden of proof fails and the petition/complaint must thus be denied.

Statement of the Case

The foregoing dictum is applied by this Court in denying this petition for review on certiorari assailing the February 21, 1994 Decision[1] of the Court of Appeals[2] in CA-G.R. SP No. 32360, which held:

“ACCORDINGLY, the instant petition for review is hereby DISMISSED for lack of merit. No pronouncement as to costs.

IT IS SO ORDERED.”[3]

The petition for review dismissed by the Court of Appeals challenged the decision[4] of the Regional Trial Court of Valenzuela, Branch 172,[5] which disposed as follows:

“The evidence on record presented by the plaintiff does not also show that his parents and himself have prior possession of the land in question. The evidence presented by the defendants, however, show that they have been the caretaker of the said public land located at Malinta, Valenzuela and adjacent to private lot of plaintiff since the year 1969 which was applied for by their principal, Jose Bayani Salcedo under Miscellaneous Sales Application No. (111-6) 131 now MLI (13-1) 33-2D.

It is very evident that the defendants are not squatters on the private land of the plaintiff.

Accordingly, therefore, the Joint Decision of the Metropolitan Trial Court dated March 18, 1993 is hereby set aside and the three complaints, Civil Case Nos. 5740, 5741 and 5742 of the Court a quo are hereby dismissed without pronouncement as to costs.

IT IS SO ORDERED.”[6]

The Antecedent Facts

The facts are narrated by Respondent Court of Appeals as follows:

“On July 19, 1990, petitioner filed complaints for ejectment against private respondents Amy Robles Peregrino Mirambel, and Merlina Mirambel, docketed as Civil Case Nos. 5740, 5741 and 5742, respectively, before the

Metropolitan Trial Court of Valenzuela, Branch 81.

On August 8, 1990, movant Jose Bayani A. Salcedo filed an urgent motion for intervention on the ground that he has a legal interest in the subject for he applied for title of the public land under 'MSA No. (11-6) 131' (now MII [131-1] 33-D), which was denied on January 2, 1991.

On August 8, 1990, private respondents filed their answers, respectively.

After submission of their position papers, the (Metropolitan Trial Court) rendered joint judgment in favor of the petitioner and against the private respondents on March 18, 1993, the dispositive portion of which herein-below quoted:

'In fine, by evidence plaintiff has preponderably established his cause of action.

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against each of the above-named defendants and any/all persons claiming rights respectively under each of them, ordering the latter as follows:

- In Civil Case No. 5740

- a). To remove her house and to vacate plaintiff's land, together with all persons claiming rights under her;
- b). To pay plaintiff reasonable compensation for her use and occupancy of the land from May 29, 1990 up to the time that she actually vacates the same, at the rate of P500.00 a month;
- c). To pay plaintiff attorney's fees in the sum of P3,500.00; and
- d). To pay the costs of suit.

- In Civil Case No. 5741

- a). To remove his house and to vacate plaintiffs' land, together with all persons claiming rights under him;
- b). To pay plaintiff reasonable compensation for his use and occupancy of the land from May 29, 1990 up to the time that he actually vacates the same, at the rate of P500.00 a month;
- c). To pay plaintiff attorney's fees in the sum of P3,500.00; and
- d). To pay the costs of suit.

- In Civil Case No. 5742

- a). To remove her house and to vacate plaintiff's land, together with all persons claiming rights under her;
- b). To pay plaintiff reasonable compensation for her use and occupancy of the land from May 29, 1990 up to the time that she actually vacates the same, at the rate of P500.00 a month;
- c). To pay plaintiff attorney's fees in the sum of P3,500.00; and
- d). To pay the costs of suit.

SO ORDERED.

Dissatisfied, private respondent filed an appeal before the (Regional Trial Court) which rendered the assailed judgment on September 21, 1993 reversing and setting aside the decision of the (Metropolitan Trial Court)."[7]

Thereafter, petitioner appealed to Respondent Court of Appeals, raising the following assignment of errors:

"I

RESPONDENT JUDGE GRAVELY ERRED IN FINDING THAT RESPONDENTS' HOUSES ARE

LOCATED ON THE PUBLIC LAND APPLIED FOR BY COL. ATTY. JOSE BAYANI SALCEDO BASED MERELY ON A LETTER DATED JUNE 7, 1971 BY THE DISTRICT LAND OFFICER OF THE BUREAU OF LAND ADDRESSED TO EULOGIO J. RIVERA, PETITIONER'S FATHER.

II

RESPONDENT JUDGE GRAVELY ERRED IN FINDING THAT PETITIONER AND HIS PARENTS/PREDECESSOR-IN-INTEREST NEVER HAD PRIOR POSSESSION OF THE LAND AND THAT INSTEAD IT WAS RESPONDENTS WHO HAVE BEEN IN OCCUPANCY THEREOF SINCE 1969 AS CARETAKER OF COL. ATTY. JOSE BAYANI SALCEDO.

III

RESPONDENT JUDGE GRAVELY ERRED IN FINDING THAT PETITIONER'S LAND ENCROACHED UPON THE PUBLIC LAND APPLIED FOR BY COL. ATTY. JOSE BAYANI SALCEDO BY AN AREA OF MORE OR LESS 400 SQUARE METERS DUE TO RESURVEYS MADE BY PETITIONER AND HIS PARENTS.”[8]

As earlier noted, the Court of Appeals dismissed the petition for failure of petitioner, as plaintiff before the trial court, to prove a cause of action. Hence, this petition for review.[9]

Public Respondent's Ruling

In dismissing the petition, the Court of Appeals ruled as follows:

“Petitioner maintains that the respondent court committed grave abuse of discretion in setting aside the decision of the trial court particularly in finding that the lots where private respondents built their houses are outside of the land owned by the petitioner, it appearing that such finding lacks evidentiary basis.

In the case at bar, petitioner seeks to eject herein private respondents who allegedly illegally constructed their house on his land. The Metropolitan Trial Court ruled in favor of the petitioner and ordered the private respondents to vacate the subject premises. On appeal, however, the respondent court reversed the appealed judgment taking into consideration that the land where the house of the private respondents stand is outside of the area owned by the petitioner, hence, there was no cause of action.

The decisive issue in the case at bar is “whether or not the lot where private respondents constructed their abode within the land [owned] by the petitioner.”

The trial court believes so while the respondent court ruled otherwise and stated that the houses are located in a public land. After a careful scrutiny of the decisions of the courts a quo, We find that both decisions are not supported by substantial evidence. The decision of the trial court stated that: ‘The evidence on hand indubitably (sic) show however that a title on the property has been issued to herein plaintiff (petitioner herein). The claim of the defendants therefore that they are occupying a public land cannot be taken as gospel truth.’ It must be noted, however, that there is no showing that the evidence on hand showed that the lot on which private respondents constructed their abode are [sic] located in the ‘titled’ property of the petitioner. The decision of the trial court disclosed that its Order dated August 12, 1991, directing the Land Management Bureau to conduct a field survey and to submit a report thereof to enable the Court to determine whether the land subject matter of these cases is a public or private land, was never implemented. It can be seen that there is no certainty that the houses of the private respondents are located on the lot owned by the petitioner. Nor was there an ocular inspection sanctioned by the court where the parties were duly represented. The Court cannot rely solely on the survey commissioned by one party for it may be self-serving absent a thorough verification thereof.

The respondent court's reliance of a letter dated June 7, 1971 of the District Land Officer Jesus B. Tabao to petitioner's predecessor-in-interest informing him that his application cannot be given due course because of the prior application of Jose Bayani Salcedo (June 26, 1969) is misplaced for it does not proved anything. The

abovementioned observations as pertaining to the trial court's finding that "the private land of the petitioner and his parents encroached upon the subject land of the public domain to an area of more or less 400 square meters due to re-survey made by the plaintiff and his parents".

In fine, We find that the courts a quo failed to make a definitive ruling on the issue of whether or not the houses constructed by the private respondents are within the private land owned by the petitioner or a public land. The parties should have conducted a field survey directed by the court below or to have an ocular inspection of the subject premises.

Verily, it appears that petitioner, as plaintiff failed to establish a cause of action, hence, the complaint must perform be dismissed.”[10]

The Issue

In his Memorandum dated February 22, 1996, Petitioner Esmundo B. Rivera formulated the issue as follows: whether “private respondents’ houses lie inside petitioner’s land, and whether petitioner was able to prove that fact.”[11] Put differently, the issue for resolution is whether or not petitioner proved his cause of action.

The Court’s Ruling

The petition is unmeritorious.

Proof Required in Civil Cases

Basic is the rule in civil cases that “the party having the burden of proof must establish his case by a preponderance of evidence.”[12] 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.”[13] In the present ejectment case, petitioner (as plaintiff) has the burden of proving that the houses of private respondents were located within his titled land. To justify a judgment in his favor, petitioner must therefore establish a preponderance of evidence on this essential fact.

Petitioner points out that the field survey, verification and measurement of his land by his privately hired geodetic engineer, Ildefonso Padigos, “found that private respondents’ houses are situated inside the same.”[14] Insisting on the findings of this private survey, petitioner assails the Respondent Court of Appeals for considering the same “undeserving of credence and belief” and insufficient to prove his case.[15]

This Court is not persuaded. The extant records of this case support the finding of the Court of Appeals that the aggregate of evidence submitted by both parties was insufficient to determine with certainty whether the private respondents’ houses were inside the petitioner’s titled property. As noted by Respondent Court, private respondents’ claim that their houses were built on public land, which Attorney Salcedo applied for, is not convincing because petitioner has a transfer certificate of title over the same parcel of land. Likewise unconvincing is the private survey commissioned by the petitioner himself to prove that the houses of private respondents encroached on his property. The reliability of the survey would have been indubitable had it been properly authenticated by the Bureau of Lands or by officials thereof.[16]

Moreover, the field survey ordered by the Metropolitan Trial Court was never conducted. Neither was an ocular inspection of the premises held in the presence of both parties. As correctly concluded by the Court of Appeals, the absence of both processes precluded the final determination of the main issue.

“Where the evidence on an issue of fact is in equipoise or there is doubt on which side the evidence preponderates[,] the party having the burden of proof fails upon that issue.”[17] Therefore, as “neither party was able to make out a case, neither side could establish its cause of action and prevail with the evidence it

had. They are thus no better off than before they proceeded to litigate, and, as a consequence thereof, the courts can only leave them as they are. In such cases, courts have no choice but to dismiss the complaints/petitions.”[18]

In any event, we are here called upon essentially to review the public respondent’s assessment of the weight of the evidence presented by both parties. This factual question, however, may not be raised in a petition for review under Rule 45 of the Rules of Court. This rule is subject to well-recognized exceptions,[19] but petitioner failed to prove that this case falls under one of them. If for this reason alone, the petition should be denied.

WHEREFORE, the petition for review on certiorari is hereby DENIED, with costs against petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 73-78.

[2] Third Division, composed of J. Justo P. Torres, Jr. (later appointed and now retired Associate Justice of the Supreme Court), ponente; and JJ. Fidel P. Purisima, Division Chairman, and Bernardo P. Pardo (now COMELEC Chairman), concurring.

[3] Decision, pp. 4-6; rollo, pp. 76-78.

[4] Rollo, pp. 69-72.

[5] Presided by Judge Emilio Leachon, Jr.

[6] Decision of the Regional Trial Court, pp. 3-4; record, pp. 65-66.

[7] Decision, pp. 1-3; rollo, pp. 73-75.

[8] Petition before the Court of Appeals, pp. 8-9; rollo, pp. 18-19.

[9] The case was deemed submitted for resolution upon receipt by this Court of petitioner’s Memorandum on March 6, 1996.

[10] Decision, pp. 4-6; rollo, pp. 76-78.

[11] Petitioner’s Memorandum, p. 8; rollo, p. 157.

[12] Section 1, Rule 133, Rules of Court.

[13] *New Testament Church of God vs. Court of Appeals*, 246 SCRA 266, 269, per Quiason, J.; citing *Republic vs. Court of Appeals*, 204 SCRA 160, 168 November 21, 1991.

[14] Petitioner’s Memorandum, p. 11, rollo, p. 159.

[15] *Ibid.*

[16] Cf. *New Testament Church of God vs. Court of Appeals*, *supra*.

[17] Francisco, *Evidence*, p. 555, second edition, (1994).

[18] *Municipality of Candijay, Bohol vs. Court of Appeals*, 251 SCRA 530, 534, December 28, 1995, per Panganiban, J.

[19] Maximino Fuentes v. The Hon. Court of Appeals, Thirteenth Division, and Virgilio Uy, Brigido Saguindang, Leoncio Caligang, et. al., G.R. No. 109849, p. 9, February 26, 1997.

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