DR. BIENVENIDO B. GESMUNDO, VEDASTO B. GESMUNDO, OLIVER B. GESMUNDO, LIGAYA G. LUALHATI, AMOR G. CARLOS AND BELEN G. ROXAS, PETITIONERS, VS. COURT OF APPEALS, 13TH DIVISION, JUD...

G.R. No. 119870. December 23, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

DR. BIENVENIDO B. GESMUNDO, VEDASTO B. GESMUNDO, OLIVER B. GESMUNDO, LIGAYA G. LUALHATI, AMOR G. CARLOS and BELEN G. ROXAS, petitioner herein, filed on 4 March 1983 a complaint against the spouses Maximina Briz and Santiago Reyes and the City Assessor of San Pablo City before the Regional Trial Court of San Pablo City for annulment of certain falsified affidavits and tax declarations. On 25 July 1983 petitioners amended their complaint by deleting the name of the deceased Santiago Reyes as defendant and substituting for him his children Leandro and Elpidio Reyes. On 28 February 1984 petitioners again amended their complaint by adding the names of Rodrigo, Lope and Casimira, all surnamed Brion, as defendants and adding quieting of title as another cause of action. The disputed property is particularly described as "[A] parcel of cocal land located at Brgy. Dolores, San Pablo City, bounded on the North by Marcelo Briñas, South by Ricardo Exconde, East by Domingo Sarmiento and West by Mariano Rivera, containing an area of 7,091 square meters."[1]

Petitioners alleged that the aforementioned property was originally declared in 1937 under Tax Declaration No. 2239 in the name of their father Anastacio Gesmundo who died on 20 June 1974.[2] Petitioners also submitted in evidence Tax Declarations Nos. 5557, 6470, 64015, 41163 and 11296[3] issued for the period covering 1948 to 1979 to substantiate their claim of ownership. They further claimed that Crispin Briz, uncle of respondent Maximina Briz, was the administrator of their father, whereas Lucio Brion, cousin of respondents Brion, was subsequently designated caretaker thereon. Still further, they asserted that on account of a series of record tampering in the City Assessor 's Office, Tax Declaration No. 11296 was cancelled.

Respondent Maximina Briz presented the same Tax Declaration No. 2239[4] but declared in the name of her grandmother Anastacia Gesmundo who died on 21 September 1909 leaving five (5) children: Rufina Briz, Crispin Briz (married to Micaela Escondo), Petra Briz (mother of Valentin Briz), Vicenta Briz and Fruto Briz (married to Petronila Javier and father of respondent Maximina Briz). Her uncle Crispin Briz, who died in 1949, was the administrator of the property. Respondent Briz also offered in evidence the same Tax Declarations Nos. 5557, 6470, 64015, 41163 and 11296[5] in the name of Anastacio Gesmundo but contended that "Anastacio" actually referred to her grandmother "Anastacia." Respondent Maximina Briz claimed that she inherited one-fifth (1/5) portion thereof from her father in 1940 and subsequently acquired the rest by way of sale transactions. She paid the real estate taxes thereon from 1945 to 1991. On 16 March 1956 her husband Santiago Reyes entered into an agreement with Crispulo Exconde for the latter to act as caretaker of their property then covered by Tax Declaration No. 6470. Their agreement was embodied in a notarized document.[6]

Respondents Brion asserted that their property with an area of 11,094 square meters was originally covered by Tax Declaration No. 5691[7] issued in 1948 in the name of their grandfather Esteban Maranan. In 1952, Tax Declaration No. 6606[8] was issued in lieu thereof still in the name of Esteban Maranan. When their grandfather died, the property was transferred in the name of their mother Francisca Maranan under Tax Declaration No. 11443[9] issued in 1980. Their mother paid real estate taxes thereon from 1972 to 1984.[10] Upon the death of their mother[11] and of their father Gervacio Brion on 28 October 1984, respondents Brion possessed the property.

At the pre-trial the parties raised among others the issue as to who of them possessed the subject property and gathering the fruits therefrom. On 23 March 1984 the trial court conducted an ocular inspection of the premises. As it turned out, the land being claimed by petitioners was located outside of the property, on the west thereof, being claimed and possessed by respondent Briz and with visible natural boundaries separating the properties. The land pointed to by petitioners was actually being occupied by respondents Brion. On 25 January 1985 the trial court nevertheless issued an order setting the case for trial as the tax declarations presented by petitioners and respondent Briz appeared to contain conflicting entries.

On 29 September 1992 the trial court rendered judgment declaring: (a) respondent Maximina Briz and the heirs of her deceased husband Santiago Reyes or their legal successors-in-interest the lawful owners of the property with an area of 7,091 square meters located in Brgy. Dolores, San Pablo City; (b) respondents Rodrigo, Lope and Casimira Brion the lawful owners of the property with an area of 11,094 square meters, also located in Brgy. Dolores, San Pablo City; (c) petitioners liable, jointly and severally, to respondent Maximina Briz or her successors-in-interest P5,000.00 for attorney 's fees and another P5,000.00 to respondents Brion; and, (d) petitioners liable for the costs.[12]

On 24 February 1995 respondent Court of Appeals affirmed the ruling of the trial court,[13] and on 6 April 1995 denied reconsideration thereof.[14]

Petitioners now allege that respondent Maximina Briz failed to prove that the Deed of Sale dated 9 December 1950 marked Exh. "11"[15] and her supposed "affidavit of self-adjudication" were registered or that the latter document was published in any newspaper of general circulation as required under par. 2, Sec. 1, Rule 74, of the Rules of Court. They also claim that respondents Brion failed to prove that their property was registered and that the affidavits of Clemente Maranan and Lucio Brion were hearsay, they not having testified on the metes and bounds of the property being claimed by the Brions.

Preliminarily, we shall dwell on the evidence of petitioners. Tax Declaration No. 2239 in the name of Anastacio Gesmundo describes subject property as a coconut land in Brgy. Dolores, San Pablo City, bounded on the north by the property of Marcelo Briñas, on the south by the property of Ricardo Exconde, on the east by the property of Domingo Sarmiento, and on the west by the property of Mariano Rivera. It contains an area of 7,091 square meters and is being administered by "Crispin Briz and others." Tax Declaration No. 5557 contains the same entries and so does Tax Declaration No. 6470 except the notation that it was cancelled by Tax Declaration No. 64014 in the name of spouses Maximina Briz and Santiago Reyes effective 1974. Tax Declaration No. 64015 is still in the name of Anastacio Gesmundo but with a reduced area of 2,837 square meters starting in 1974 and the eastern boundary was changed to the property of spouses Maximina Briz and Santiago Reyes. We deduce therefrom that Tax Declaration No. 64014 covered the bigger area of 4,254 square meters. Tax Declaration No. 41163 contained the same entries as Tax Declaration No. 64015 which were carried over to Tax Declaration No. 11296 but now with the notation that it was cancelled by Tax Declaration No. 46358 in the name of the spouses Maximina Briz and Santiago Reyes effective 1979 and by Tax Declaration No. 46359 in the name of Maximina Briz effective 1980.

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We now shift to the evidence of respondent Maximina Briz. Her Tax Declaration No. 2239 shows the same description of the property as the copy of petitioners except that the first name of the owner is "Anastacia," her grandmother. Petitioner Vedasto Gesmundo admitted that he knew Anastacia Gesmundo to be the grandmother of respondent Briz. However it appears that petitioners are not related at all to Anastacia Gesmundo. The spouses Maximina Briz and Santiago Reyes established that on 9 December 1950 they bought the one-fifth (1/5) share of Crispin Briz in the 7,091-square meter property from his surviving spouse Micaela Escondo or 1,418 square meters of the property then covered by Tax Declaration No. 5557. The transaction was evidenced by a notarized deed of sale marked Exh. "11."[16]

On 7 July 1954 the spouses Maximina Briz and Santiago Reyes bought the two-fifths (2/5) share of Petra Briz, maternal aunt of Maximina Briz, from Petra 's surviving son Valentin Briz consisting of 2,836 square meters then covered by Tax Declaration No. 6470. The transaction was contained in a notarized deed of sale as well.[17] On 10 April 1959 the spouses Reyes bought through another notarized deed of sale a 1,418-square meter portion of the land covered by Tax Declaration No. 6470, this time from Jose, Delfina and Raymunda, all surnamed Reyes.[18] By virtue of these two (2) later sale transactions, Tax Declaration No. 64014[19] was issued in the name of the spouses Maximina Briz and Santiago Reyes for the year 1974 with a total area of 4,254 square meters. The remaining 1,419 square meters were adjudicated by respondent Maximina Briz to herself representing her share of the inheritance on 30 August 1979 as she has been in actual possession thereof since 1940. This self-adjudication resulted in the issuance of Tax Declaration No. 46358 in 1979,[20] and the sale by Micaela Escondo to the spouses Reyes the issuance of Tax Declaration No. 46359 in 1980.[21] We thus agree with the trial court that the testimonial and documentary evidence of respondent Briz adequately establish that the 7,091-square meter property formerly belonged to Anastacia Gesmundo, thereafter transferred to her children by inheritance until ownership thereof was consolidated in respondent Maximina Briz both as a consequence of inheritance and by sale.

The name "Anastacio" in several tax declarations appears to be a typographical error by the City Assessor 's Office. We note that Tax Declaration No. 2239 of respondent Briz names Anastacia Gesmundo as owner. We find plausible the explanation of respondent Briz that she understood "Anastacio" in subsequent tax declarations to be Anastacia because she did not know Anastacio Gesmundo.[22] We likewise note that Crispin Briz was mentioned in Tax Declarations Nos. 2239, 5557 and 6470 as administrator of the 7,091-square meter property. Crispin Briz was one of the children of Anastacia Gesmundo. It was thus logical that he was given such task.

Petitioners claim that the same Crispin Briz was the administrator of their father over the same property until Lucio Brion took over as caretaker. We are not persuaded. As found by the trial court, Crispin Briz was a total stranger to petitioners and Lucio Brion was not even presented as a witness.

Prescription is another mode of acquiring ownership and other real rights over immovable property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner - public, peaceful, uninterrupted and adverse. Acquisitive prescription is either ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for ten (10) years. In extraordinary prescription ownership and other real rights over immovable property are acquired through uninterrupted adverse possession thereof for thirty (30) years without need of title or of good faith.[23]

Even assuming that the deeds of sale and "affidavit of self-adjudication" in favor of respondent Briz did not exist and that she was only equipped with tax declarations and receipts, the important consideration then is that she has been in possession of the 7,091-square meter property since 1956 through Crispulo Exconde as caretaker. Her possession was in the concept of owner. Her acts of harvesting coconuts therefrom were manifest and visible to

all. She possessed the property peacefully as she was never ousted therefrom nor prevented from enjoying the fruits thereof. Her possession was uninterrupted and in good faith as she believed that her grandmother previously owned the property. Ordinary acquisitive prescription had definitely set in ten (10) years from 1956. While tax declarations and receipts are not conclusive evidence of ownership, yet, when coupled with proof of actual possession, as in the present case, tax declarations and receipts are strong evidence of ownership.[24]

Aside from the utter failure of petitioners to prove their ownership of the 7,091-square meter property, they were uncertain as to the identity thereof. During the ocular inspection, petitioners pointed to a property different from the one being claimed by respondent Maximina Briz; it was the property being claimed by respondents Brion. A person who claims ownership of real property is duty bound to clearly identify the land being claimed in accordance with the document on which he anchors his right of ownership. When the record does not show that the land subject matter of the action has been exactly determined, such action cannot prosper. Proof of ownership together with identity of the land is the basic rule.[25]

On the part of respondents Brion, the property over which they assert ownership was declared in 1948 by their grandfather Esteban Maranan under Tax Declaration No. 5691 and in 1952 under Tax Declaration No. 6606 with an area of 11,094 square meters. The property was described therein as bounded on the north by the property of Policarpio Empamano, on the south by the property of Florentino Mariño, on the west by the property of Maximo Briñas, and on the east by the property of Anastacio Gesmundo. In 1961, Tax Declaration No. 6606 was cancelled by Tax Declaration No. 11443 in the name of Francisca Maranan, mother of respondents Brion, who paid the real estate taxes thereon from 1972 to 1984. Upon the death of their mother, and later of their father Gervacio Brion on 28 October 1984, respondents Brion possessed the property. As already adverted to earlier, the date of death of Francisca Maranan does not appear in the record.

In this regard we cannot sustain the ownership of respondents Brion as ruled by the trial court since it relied merely on the tax declarations and tax receipts in the name of the predecessors-in-interest of respondents Brion and on the affidavit of Clemente Maranan, their uncle, stating that subject property was bought by his father Esteban Maranan from Mariano Rivera before the Second World War and that they have been in possession thereof since then. As mentioned earlier, tax declarations and receipts are strong evidence of ownership only when coupled with proof of actual possession which must be clear, complete and conclusive in order to establish prescription.[26] Unfortunately, respondents Brion were only able to prove their own possession which began in 1984 up to the time respondent Casimira testified on 25 May 1992. They failed to establish the possession of their predecessors-in-interest. Moreover, the affidavit of Clemente Maranan who did not take the witness stand has no probative value; it is hearsay.[27] Sworn statements taken ex parte are generally considered to be inferior to the testimony given in open court.[28] Clearly, ownership by acquisitive prescription of the 11,094-square meter property has not yet accrued in favor of respondents Brion at the time the case was heard by the trial court.

WHEREFORE, the petition is PARTIALLY GRANTED. The Decision of respondent Court of Appeals affirming that of the Regional Trial Court of San Pablo City-Br. 31 is MODIFIED. The declaration of ownership by the trial court in favor of respondent Maximina Briz and the heirs of her deceased husband Santiago Reyes or their legal successors-in-interest of the disputed property containing an area of 7,091 square meters located in Brgy. Dolores, San Pablo City, is AFFIRMED. However, the declaration of ownership by respondents Rodrigo, Lope and Casimira, all surnamed Brion, of the adjoining property containing an area of 11,094 square meters is SET ASIDE. The other portions of the trial court 's decision ordering petitioners Dr. Bienvenido B. Gesmundo, Vedasto B. Gesmundo, Oliver B. Gesmundo, Ligaya G. Lualhati, Amor G. Carlos and Belen G. Roxas to pay, jointly and severally, to respondent Maximina Briz attorney 's fees of P5,000.00 and another P5,000.00 to respondents Brion, are also AFFIRMED. No costs.

SO ORDERED.
Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Records, Vol. II, p. 134.

[2] Exh. "A-1;" Folder of Exhibits, p. 7.

[3] Exhs."A-2" to "A-6;" id., pp. 8-12.

[4] Exh. "2;" id., p. 43.

[5] Exhs. "3," to "5," " 7" and "8;" Folder of Exhibits, pp. 44-49.

[6] Exhs. "1" and "1-A;" id., pp. 41 and 42.

[7] Exh. "16;" id., p. 65.

[8] Exh. "17;" id., p. 67.

[9] Exh. "18;" id., p. 69.

[10] Exh. "20;" id., p. 71.

[11] Date of death of Francisca Maranan does not appear in the record.

[12] Decision penned by Judge Zorayda Herradura-Salcedo of RTC-Br. 31, San Pablo City; Records, Vol. II, p. 149.

[13] Decision penned by Justice Antonio P. Solano with the concurrence of Justices Minerva P. Gonzaga-Reyes (now a member of this Court) and Eduardo G. Montenegro; Rollo, p. 18.

[14] Rollo, p. 19.

[15] See Folder of Exhibits, pp. 52-53.

[16] Ibid.

[17] Exh. "11-A;" id., p. 54.

[18] Exh."11-B;" id., p. 55.

[19] Exh. "6;" id., p. 47.

[20] Exh. "10;" id., p. 51.

[21] Exh. "9;" id., p. 50.

[22] TSN, 25 October 1991, p. 7.

[23] Heirs of Segunda Maningding v. Court of Appeals, G. R. No. 121157, 31 July 1997, 276 SCRA 601 citing Arts. 1117 and 1137 of the Civil Code.

[24] Bautista v. Court of Appeals, No. L-43105, 31 August 1984, 131 SCRA 533.

[25] Beo v. Court of Appeals, G. R. No. 95709, 13 August 1991, 200 SCRA 575.

[26] Mariano v. De Vega, G. R. No. 59974, 9 March 1987, 148 SCRA 342.

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[27] JRS Business Corporation v. NLRC, G. R. No. 108891, 17 July 1995, 246 SCRA 445.

[28] People v. Lazaro, G. R. No. 99263, 12 October 1995, 249 SCRA 234.

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