ROMEO RANOLA AND NELSON RANOLA, PETITIONERS VS. COURT OF APPEALS, FERMIN B. ALFORQUE, MARCELINA A. LALUNA, MARIA B. ALFORQUE, ALBERTO ALFORQUE, BERNARDO ALFORQUE, JR., MARCELO A...

G.R. No. 123951. January 10, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ROMEO RANOLA and NELSON RANOLA, petitioners, seek a review and to reverse and/or nullify the 10 October 1995 Decision of the Court of Appeals which affirmed the Decision of the Regional Trial Court, Br. 23, Cebu City, declaring respondents as the true owners of the parcel of land covered by Tax Declaration No. 029785 with an area of 495 square meters, more or less, as well as its Resolution of 8 February 1996 denying a reconsideration.

Respondents Fermin B. Alforque, Marcelina A. Laluna, Maria B. Alforque, Alberto Alforque, Bernardo Alforque Jr., Marcelo Alforque, Nicolas Alforque, Marina Alforque and Cesario Alforque are the descendants and heirs of one Cesario Alforque, a resident of Barrio Tuyan, Naga, Cebu, who owned several parcels of land in his barrio. In December 1960 his children herein named executed a document known as "Affidavit (Declaration of Heirs)" where they agreed for sentimental reasons and convenience to hold pro indiviso as their community property the following two (2) parcels of land belonging to their father, the deceased Cesario Alforque, located in Barrio Tuyan, Naga, Cebu, and described as -

> (a) A parcel of cocoland declared in the name of the deceased Cesario Alforque covered by Tax Declaration No. 10829, covering an area of 285 square meters, with seven (7) fruit-bearing coconut tress as permanent improvement and a two (2) storey house with G.I. roofing and lumber walling and flooring, bounded on the North by land of Gregorio Repolido, on the East by land of Gregorio Repolido, on the south by national road, and on the West by land of Eulogio Alforo and in the possession of private respondents, with an assessed value of P120.00 at least as of December 1960; and (b) A parcel of cocoland declared in the name of the deceased Cesario Alforque, covered by Tax Declaration No. 11023, with an area of 4,090 square meters with twenty (20) fruit-bearing coconut trees as permanent improvement, bounded on the North by land of Florencio Lapayag, on the East by seashore, on the south by land of Gregorio Navales, and on the West by the national road, with an assessed value of P440.00, which is presently in the possession of private respondents.

In 1967 respondents as heirs of Cesario Alforque mortgaged the two (2) parcels of land above-described to the Rural Bank of Talisay to secure a loan, and upon their failure to pay the loan the bank foreclosed the mortgaged property. On 29 December 1979 the Rural Bank of Talisay sold the foreclosed property to defendant Nelson Ranola for P5,000.00.

Nelson Ranola however could not take possession of the 285-square meter cocoland, the first parcel of land herein above-described in par. (a), in view of the claim of Fermin B. Alforque, one of the heirs of Cesario Alforque, that the wooden house situated on the land as well as part of the rear portion was not among the property sold by the

Rural Bank of Talisay to Nelson Ranola.

In December 1982 Nelson Ranola filed a complaint for ejectment against Angeles Alforque, occupant of the house and said to be a sister-in-law of the Alforques, with the Municipal Trial Court of Naga, Cebu, docketed as Civil Case No. R-164. In his amended complaint dated 22 December 1982 Nelson Ranola alleged that he was the absolute and registered owner of a 285-square meter lot in Tuyan, Naga, Cebu covered by Tax Declaration No. 17354.[1] Subsequently, Nelson Ranola and Angeles Alforque entered into a compromise agreement now embodied in the 28 February 1984 decision of the lower court declaring that the latter should vacate the premises and that the residential house found on the land should be given to her.

Thereupon the house was transferred to a site not far from its former location, on a lot claimed by the heirs of Cesario Alforque as among their inherited properties and which was separate and distinct from the lot bought by Nelson Ranola from the rural bank. The latter thereafter filed a motion to declare Angeles Alforque and six (6) of the heirs of Cesario Alforque in contempt of court. The trial court however denied the motion but declared that there should be no contempt until the ownership or identity of the specific site on which the constructions were built was conclusively determined.

During the pendency of the ejectment case, the lands in Naga, Cebu, were cadastrally surveyed. The heirs of Cesario Alforque received a survey notification card dated 16 December 1982 showing at the back thereof a sketch of the property being claimed, denominated as Lot No. 2015, marked "Heirs of Cesario Alforque," and declaring as one of the adjoining property owners Nelson Ranola for that 285-square meter parcel of land which he bought from the Rural Bank of Talisay.[2] Later, a survey notification card dated 28 April 1983 was issued to petitioner Nelson Ranola by another member of the survey team.[3] However, the sketch of the property found at the back thereof included the property being claimed by the Heirs of Cesario Alforque. At his instance, a sketch plan of the land, denominated as Lot No. 1102, was prepared patterned after the sketch found at the back of the card and describing his property as containing 531 square meters.[4]

Consequently, on 4 September 1984 an action for quieting of title and damages was filed by the Heirs of Cesario Alforque led by Fermin Alforque against Romeo Ranola[5] praying that they be declared the true and legal owners of Lot No. 2015 situated in Tuyan, Naga, Cebu, containing an area of approximately 495 square meters, covered by Tax Declaration No. 029785, and bounded on the north by the property of Catalino Repolido, on the east by the property of Cesario Alforque, on the south by the property of Pio Navales, and on the west by the property of Rufo Navales. The Heirs of Cesario Alforque further claimed that the lot was among several parcels inherited by them from Cesario Alforque, separate and distinct from the 285-square meter property purchased by petitioner Nelson Ranola from the Rural Bank of Talisay but which petitioners had been trying to usurp through threats and intimidation. The Heirs likewise claimed that their predecessor-in-interest was in continuous possession of Lot No. 2015 in the concept of owner since 1946 and had declared it in his name under Tax Declaration No. 00578,[6] and that they continued such possession from the death of Cesario Alforque and had it declared in their names under Tax Declarations Nos. 016107 in 1967,[7] 008605 in 1974[8] and 029785 in 1980.[9]

On 13 March 1985 Nelson Ranola filed his answer with counterclaim stating that the property he bought from the Rural Bank of Talisay and covered by Tax Declaration No. 17354 had a total area of 531 square meters which included the portion being claimed by the Heirs of Cesario Alforque and identified as Lot No. 1102, Cadastral Survey No. 747-FD, Case No. 7, and that his ownership over the property had already been fully established in the ejectment case, docketed as Civil Case No. R-164, hence barred by res judicata. Nelson Ranola likewise contended that the Heirs of Cesario Alforque perjured themselves when they claimed ownership over Lot No. 2015 of Cadastral Survey No. 747-D since the property actually belonged to one Porferio Sasan, situated in

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Inayagan, Naga, Cebu, with an area of 4,780 square meters, with different boundaries.

On 16 November 1989 private respondents herein filed a second amended complaint alleging that Lot No. 2015 of Cadastral Survey No. 747-D had been mysteriously erased from the tracing cloth plan, merged with the lot of Nelson Ranola and then designated as Lot 1102 in his name. Fortunately, the error was discovered and recorded at the Bureau of Lands as “Nelson Ranola v. Hrs. of Cesario Alforque,” as evidenced by Bureau of Lands Form No. 70 C V-4, Exh. "00-2."

On 18 June 1991 the trial court ruled in favor of respondents finding that there were noticeable erasures of the line separating the property of Nelson Ranola from the property of the Heirs of Cesario Alforque on the original tracing cloth plan, which resulted in the considerable increase of the area of Nelson Ranola’s property from 285 square meters to 531 square meters. Hence, the trial court declared respondents as the true owners of the disputed property; directed the Bureau of Lands to revise the survey of Lot No. 1102 by segregating therefrom, from points 5 to 9, the portion belonging to the latter, and to assign a new lot number to the portion adjudicated to respondents. The claim of Nelson Ranola over the disputed land was declared invalid and petitioners were ordered to pay jointly and severally to respondents P20,000.00 as moral damages and P10,000.00 as attorney’s fees, and to pay costs.[10]

On 10 October 1995 respondent Court of Appeals affirmed the Decision of the trial court,[11] and on 8 February 1996 the motion to reconsider the Decision was denied.

Petitioners now pray this Court to determine who has a better right over the disputed property. Petitioners insist that the appellate court erred in relying on the survey notification card presented by respondents as basis for its adjudication as the same is fake and does not exist in the records of the Bureau of Lands. Petitioners invite our attention to the certification of 11 February 1990 issued by Surveyor Enrique G. Fuentes, allegedly a signatory on the card, that the same was null and void,[12] and the admission of Pilar Cabahug, Chief of the Survey Section, Bureau of Lands, that the card was not issued by the Bureau of Lands.[13]

Petitioners furthermore assert that Lot No. 2015, per existing cadastral survey of Naga, Cebu, on file with the Bureau of Lands, actually belongs to Porfirio Sasan with an area of 4,780 square meters and situated in Inayagan, Naga, Cebu, two (2) kilometers away from Lot. No. 1102, contrary to the representations made by respondents. Hence, it should be concluded that the survey notification card held by respondents showing them as owners of Lot No. 2015, with an area of 495 square meters, is fake and cannot be the basis of the division of the genuine survey of Lot No. 1102 into two (2) lots.

In sustaining the claim of respondents over subject property, the appellate court did not commit any reversible error. That the lot claimed by respondents is separate and distinct from the parcel of land bought by Nelson Ranola from the Rural Bank of Talisay is clearly shown by the series of Tax Declarations covering the lot, from year 1950 and by subsequent revisions thereof in 1967, 1974 and 1980. Cesario Alforque had been in continuous possession in the concept of owner of the property since 1950 and declared it in his name in the same year under Tax Declaration No. 00578. Upon his death, his heirs took possession of the property and declared the land in their names under Tax Declarations Nos. 016107, 008605 and 029785. All these tax declarations consistently show that a parcel of land situated in Tuyan, Naga, Cebu, with an area of 495 square meters, bounded on the north by Catalina Repolido, on the south by Pio Navales, on the east by Cesario Alforque or his heirs, and on the west by Rufo Navales or his heirs, was formerly owned by Cesario Alforque and later by his heirs. While it is true that tax receipts and tax declarations are not incontrovertible evidence of ownership, they constitute credible proof of a claim of title over the property.[14] Coupled with the Alforques’ actual possession of the property since 1946, the tax declarations become strong evidence of ownership.[15]

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On the other hand, it remains indisputable that one of the properties mortgaged by the Alforques in favor of the Rural Bank of Talisay was the lot containing an area of 285 square meters and it was the same parcel of land which that bank ultimately foreclosed and sold at public auction to petitioner Nelson Ranola. The 29 December 1979 Deed of Absolute Sale executed by the bank to Nelson Ranola also shows that the property subject of the sale contained an area of 285 square meters only. This lot was originally declared in the name of Cesario Alforque under Tax Declaration No. 10829 in 1958.[16] It was later cancelled by Tax Declaration No. 12271 in 1961,[17] then by Tax Declaration No. 016086 in 1967[18] and by Tax Declaration No. 008598 in 1974,09[19] all declared in the names of respondents Bernardo, Marcelina, Maria and Fermin Alforque. When the property was transferred to the Rural Bank of Talisay in 1975 it was covered by Tax Declaration No. 013732,[20] and was thereafter transferred anew to petitioner Nelson Ranola under Tax Declaration No. 17354.[21] In all these tax declarations, the property was invariably described as containing an area of 285 square meters, situated in Barrio Tuyan, Naga, Cebu, and bounded on the north and east by property of Gregorio Repolido, on the south by the highway, and on the west by Eulogio Alforo.

Moreover, Nelson Ranola acknowledged the expanse of the property which he bought from the Rural Bank of Talisay as only 285 square meters in the ejectment case which he filed against Angeles Alforque. Such judicial admission is conclusive upon him; he is precluded from denying it.

With the series of tax declarations and the deed of absolute sale, combined with the judicial admission of petitioner Nelson Ranola in this regard, it becomes certain that the area of Lot No. 1102 is confined only to 285 square meters. That the cadastral survey notification card of Lot No. 1102 issued to Nelson Ranola allegedly reflected an actual area of 531 square meters is of no moment as the deed of sale reveals that the subject of the sale is limited only to 285 square meters, no more no less. It was that expanse which was sold; it was the same expanse that was bought.

Furthermore, an examination by the trial court of the sketch plan of Lot No. 1102 revealed an alteration in its preparation. There was a noticeable erasure of the line separating the property of petitioner Nelson Ranola from the property claimed by the Heirs of Cesario Alforque, particularly referring to the line connecting points 5 and 9, as was discerned from an analysis of the original tracing cloth plan, thereby resulting in the increase in the area of Nelson Ranola's property and his encroachment on the 495-square meter property of respondents. The findings of the lower court being conclusive unless arbitrarily arrived at, we see no reason to disturb them in the case before us.

Petitioners assail the authenticity and due execution of the survey notification card presented by the Heirs of Cesario Alforque as an inaccurate basis to subdivide Lot No. 1102 into two (2) lots. But we are not persuaded. Surveyor Enrique G. Fuentes was not presented during the trial to substantiate his claim; hence, his certification is of little weight. However we are convinced by the declaration of Survey Chief Pilar Cabahug that the survey card was not issued by the Bureau of Lands. The trial court therefore should not have relied on the survey card in ordering the segregation of the portion marked Exhibit "T-1" in favor of respondents, and assigning the portion marked Exhibit "T-2" to petitioner Nelson Ranola. Nevertheless, inasmuch as the sketch plan indicated the area of Lot No. 1102 to be 531 square meters, instead of only 285 square meters, we shall order its revision.

Concerning the other argument of petitioners that per records of the Bureau of Lands Lot No. 2015 refers to a different property which is claimed by another, this circumstance should not be taken against respondents since they merely relied on the sketch plan of the disputed property designating it as such.

However, the trial court erred in awarding P20,000.00 as moral damages and P10,000.00 as attorney's fees without making a finding thereon. Whenever granted, the court must explicitly state in the body of its decision,

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and not only in the dispositive portion thereof, the legal reason for the award.[22] The power of the courts to grant damages and attorney's fees demands factual, legal and equitable justification; its basis cannot be left to speculation or conjecture.[23]

WHEREFORE, the petition is PARTIALLY GRANTED. The Decision of respondent Court of Appeals of 10 October 1995 affirming the Decision of the trial court, as well as its Resolution of 8 February 1996 denying reconsideration thereof is AFFIRMED subject to the MODIFICATION that the award of moral damages and attorney's fees is DELETED.

Private respondents FERMIN B. ALFORQUE, MARCELINA A. LALUNA, MARIA B. ALFORQUE, ALBERTO ALFORQUE, BERNARDO ALFORQUE JR., MARCELO ALFORQUE, NICOLAS ALFORQUE, MARINA ALFORQUE and CESARIO ALFORQUE, are declared the owners pro-indiviso of the 495-square meter parcel of land situated in Barrio Tuyan, Naga, Cebu.

The Bureau of Lands is ordered to revise the survey of Lot No. 1102 as shown in the sketch plan to conform to its area of 285 square meters and thereafter to submit the revised sketch plan to the trial court of origin. The Bureau of Lands is directed to assign a new lot number to the portion adjudicated to respondents to be reflected in the revised sketch plan.

Petitioners Romeo and Nelson Ranola are directed henceforth to cease and desist from further disturbing the ownership and possession of respondents over the property in litigation.

SO ORDERED.

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

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[*] An heir and namesake of the deceased Cesario Alforque.[1] Exhs. "L" and "L-1."[2] Exh. "M;" Plaintiffs' Folder of Exhibits, p. 15.[3] Exh. "19;" Defendants' Folder of Exhibits, p. 20.[4] Exh. "T;" Plaintiffs' Folder of Exhibits, p. 22.[5] Romeo Ranola is the brother of Nelson Ranola. Romeo was sued in his capacity as attorney-in-fact of Nelson. The complaint filed by the Heirs of Cesario Alforque was later amended to include Nelson Ranola as the real party in interest.[6] Exh. "A;" id., p. 1.[7] Exh. "B;" id., p. 2.[8] Exh. "C;" id., p. 3.[9] Exh. "D;" id., p. 4.[10] Decision penned by Judge Esperanza F. Garcia of RTC-Br. 23, Cebu City; CA Rollo, pp. 57-58.[11] Decision penned by Justice Jorge S. Imperial, with the concurrence of Justices Eduardo G. Montenegro and Jose C. de la Rama; Rollo, p. 65.[12] Exhs. "43" and "43-A;" Defendants' Folder of Exhibits, pp. 43-45.[13] TSN, 21 July 1987, pp. 6-8.[14] Director of Lands v. IAC, G.R. No. 68946, 22 May 1992, 209 SCRA 214.[15] Tabuena v. CA, G.R. No. 85423, 6 May 1991, 196 SCRA 650[16] Exh. "E;" Plaintiffs' Folder of Exhibits, p. 5.[17] Exh. "F;" id., p. 6.[18] Exh. "G;" id., p. 7.[19] Exh. "H;" id., p. 8.[20] Exh. "I;" id., p. 9.[21] Exh. "J;" id., p. 10.[22] Scott Consultants & Resource Development Corporation, Inc. v. Court of Appeals, G.R. No. 112916, 16 March 1995, 242 SCRA 393; People v. Castro, G.R. No. 122671, 18 November 1997, 282 SCRA 212.[23] Ibid.

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