HEIRS OF FRANCISCO NABONG, NAMELY: ROSALINO, CECILIO, PURIFICACION, MARCIANO, LEONIDES AND REALINA, ALL SURNAMED NABONG, PETITIONERS, VS. PUREZA AÑAR, ERNITA AÑAR, PURISIMA A. C...

G.R. No. 134989. August 31, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Assailed in this petition for certiorari under Rule 45 of the Rules of Court is the decision[1] of the Court of Appeals in CA-G.R. CV No. 51819,[2] with the following disposition:

> WHEREFORE, in view of all the foregoing circumstances, the Decision dated May 10, 1995 is hereby SET ASIDE and a new one entered declaring plaintiffs possessors and owners of 1,780 hectares on the eastern portion of the 3,780 hectares of land described as Lot 21, PLS 799 of the Tagaloan Public Land Subdivision and quieting their title thereto and declaring the defendants owners and possessors of the remaining portion of 2,000 hectares on the western side of Lot 21, PLS 799 of the Tagaloan Public Land Subdivision.
>
> No award for attorney's fees, litigation expenses and exemplary damages is made.
>
> No costs.
>
> SO ORDERED.

This case began with a complaint for Quieting of Title with Damages filed by petitioners against respondents on June 26, 1973. In their complaint, petitioners alleged that they are the co-owners of a parcel of coconut land located in Sta. Cruz, Tagoloan, Misamis Oriental, described as follows:

> A parcel of Coconut Land, situated at Sta. Cruz, Tagoloan, Misamis Oriental, bounded on the North by Mr. Juan Llenares, on the East by Rosito Mabayo; on the South by Francisco Nabong, and on the West by Rosito Juan Llenares, with an area of 1.4892 hectares, planted with 204 coconut trees, and assessed in the amount of P2,130.00 per lates (sic) Tax Declaration No. 19831, for the current year.[3] (Emphasis supplied)

Petitioners base their claim of ownership over the property on several tax declarations issued in the name of their father, the deceased Francisco Nabong, coupled with open, adverse and continuous possession thereof for almost thirty years. They alleged that respondents, despite knowledge of petitioners' ownership, filed a malicious complaint with the Office of the Provincial Commander of Cagayan de Oro City, asserting an adverse interest on their property. Thus, petitioners prayed that they be declared as the true and absolute owners of the property.[4]

In their Answer with Counterclaim, respondents claimed ownership of the disputed property and alleged that petitioners are mere squatters thereon.[5]

During the proceedings before the trial court, it was brought out that there is a discrepancy with regard to the identity of the litigated property. Petitioners rely on Tax Declaration Nos. 2675 for the year 1948, 12913 for the

year 1963, 15028 for the year 1967, 19831 for the year 1973 and 24122 for the year 1974, in the name of the late Francisco Nabong, covering a coco land with an area of 1.4892 hectares.[6] On the other hand, as proof of ownership, respondents rely on Tax Declaration Nos. 339 for the year 1948 and 5559 for the year 1952, in the name of the late Apolonio Añar, covering a coco land with an area of 2 hectares.[7]

Hence, the Provincial Assessor of Misamis Oriental was appointed as Commissioner to determine the identity, size, age, and nature of existing improvements and actual occupants of the land in litigation.[8] In her report dated March 7, 1989, Commissioner Corazon V. Beltran made the following findings:

> - That during the inspection it was verified that the property described under tax declaration No. 19831 pertains to Lot No. 21, PLS 799, Case No. 1 of the Cadastral Survey of the Bureau of Lands, . . .
>
> - That the area covered by the said survey was 37,800 square meters, more or less;
>
> . . .
>
> - That on March 2, 1989, the second inspection was conducted to ascertain tax declaration No. 339 declared in the name of Apolonio Añar and this time guided by the Heirs of Apolonio Añar;
>
> . . .
>
> - That after touring around the property, it was ascertained that the property, or the lot for that matter, pinpointed by their heirs of Apolonio Añar was the very exact property pinpointed by Mr. Leonides Nabong during the first inspection;[9]

Based on these findings, Commissioner Beltran concluded that "Tax Declaration No. 19831 in the name of late Francisco Nabong, and Tax Declaration No. 339 in the name of the late Apolonio Añar are one and the same property as actually verified in the field and as described in this report."[10]

For one reason or another, the proceedings in the trial court dragged on for more than twenty years. Their heirs substituted the original plaintiffs and defendants, pleadings were amended, counsels changed, and the case passed on from one judge to another. Until finally, on May 10, 1995, the Regional Trial Court of Cagayan de Oro City (Branch 23), rendered its decision awarding the property to petitioners. The decretal portion of the decision reads:

> WHEREFORE, by clear preponderance of evidence, plaintiffs have proven not only their possession of the property subject matter of the litigation but ownership as well and are therefore entitled to the removal of any cloud of doubt existing over their ownership of property. The defendants are therefore precluded from making any claim or possession of ownership over the subject matter as the same is the ownership of the plaintiffs who are entitled to possess the same.
>
> Defendants are likewise ordered to pay the plaintiffs the sum of P10,000.00 as attorney's fees, P5,000.00 for reasonable litigation expenses, and exemplary damages in the amount of P5,000.00.
>
> SO ORDERED.[11]

On appeal by respondents, the Court of Appeals set aside the trial court's decision and entered a new one declaring petitioners as owners of 1,780 hectares on the eastern portion of the 3,780 hectares of land described as Lot 21, PLS 799 of the Tagalog Public Land Subdivision, while respondents were declared owners of the remaining portion of 2,000 hectares on the western side of Lot 21, PLS 799.[12]

Hence, this petition by the heirs of the late Francisco Nabong.

The fundamental matter that needs to be clarified in this case is the actual identity of the property in dispute.

In their complaint filed in 1973, petitioners claim that they own the property described as a parcel of coconut land,

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situated at Sta. Cruz, Tagoloan, Misamis Oriental, with an area of 1.4892 hectares.[13] As proof of ownership, petitioners presented Tax Declaration Nos. 2675 for the year 1948, 12913 for the year 1963, 15028 for the year 1967, 19831 for the year 1973 and 24122 for the year 1974, in the name of the late Francisco Nabong.[14] The boundaries set forth in Tax Declaration No. 19831 and later on, in Tax Declaration No. 24122, are as follows:

NORTH

:

JUAN LLENARES

EAST

:

ROSITO MABAYO

SOUTH

:

FRANCISCO NABONG

WEST

:

JUAN LLANARES

Meanwhile, respondents claim ownership over said property by virtue of Tax Declaration Nos. 339 for the year 1948 and 5559 for the year 1952, in the name of the late Apolonio Añar, covering a coco land with an area of 2 hectares.[15] The boundaries laid therein are:

NORTH

:

JUAN LLENARES

EAST

:

FRANCISCO NABONG

SOUTH

:

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FRANCISCO NABONG

WEST

:

TAGOLOAN RIVER

Due to these conflicting claims, the trial court appointed a commissioner to determine the identity of the property. However, instead of shedding light, the commissioner's report brought further addle to the conflict when it declared that the property in dispute actually pertains to Lot 21, PLS 799, Case No. 1 of the Cadastral Survey of the Bureau of Lands, containing 3.780 hectares, and bounded as follows:

NORTH

:

CAD LOT 18 OF HEIRS OF JUAN LLENARES

CAD LOT 29 OF CARMEN CASIÑO

EAST

:

CAD LOT 28 OF HEIRS OF JUAN LLENARES

CAD LOT 26 OF RENITA NABONG

CAD LOT 25 OF ROSALINO NABONG

CAD LOT 22 OF EVAGRIO NABONG

CAD LOT 737 OF CERTAIN CASIÑO

SOUTH

:

TAGOLOAN RIVER AND NATIONAL HIGHWAY

WEST

:

DRIED-UP PORTION OF TAGOLOAN RIVER

The trial court apparently disregarded the findings of the commissioner with regard to the identity and size of the land, and awarded to petitioners that portion of property as described in their complaint, i.e., the parcel of coconut land measuring 1.4892 hectares.

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The appellate court, however, modified the decision of the trial court and divided between petitioners and respondents Lot 21 containing 3.780 hectares, with petitioners getting 1.780 hectares of the eastern portion, and respondents, 2.000 hectares of the western portion. It was the ruling of the appellate court that:

> It is noted that as aforestated, the complaint of plaintiffs-appellees for quieting of title is only for an area of 1.4892 hectares. Defendants-appellants, on the other hand, claim only 2,000 hectares of land which is also a portion of Lot 21, PLS 799 of the Tagoloan Public Land Subdivision which has a total area of 3.7800 hectares. Both parties have sufficiently proven by preponderance of evidence their respective claims. There is no justification for the plaintiffs applying for a free patent over the whole Lot 21, when they only claim 1.4892 hectares.
>
> This Court has found merit in defendants-appellants' contention that the trial court erred when it declared plaintiffs to be the sole owners of the subject land. Considering that Lot 21, PLS 779 of the Tagoloan Public Land Subdivision has a total area of 3.7800 hectares which is being claimed by the parties herein, in order to afford substantial justice and equity for both parties, this Court finds it proper to modify the judgment appealed from, so as to give both parties the portions they claim.[16]

Because of these findings by the trial and appellate courts, the Court now is in a quandary as to the identity of the property in litigation. It would be futile for the Court to reconcile the boundaries, location and exact measurement of the subject property, as the tax declarations submitted by both parties do not conform to the boundaries set in Lot 21, and no amount of effort will facilitate in identifying with certainty the subject property vis-à-vis the tax declarations of the parties.

The Court notes that this case would have been clearly resolved had the trial court appointed a geodetic engineer, and not the municipal assessor who is obviously less qualified, to ascertain the identity of the property and its history. Also, the respective tax declarations of the parties, with its description and boundaries, pertain to the years 1948, 1963, 1967, 1973, and 1974, for petitioners; and 1948 and 1952 for respondents. Meanwhile, the commissioner's report was based on an inspection made on the premises in 1989. The report did not contain any findings as to whether the property, at the time of the ocular inspection, contain the same boundaries as originally described in the parties' tax declarations. The commissioner also failed to account for her conclusion that the property described under petitioners' Tax Declaration No. 19831 pertains to Lot 21, PLS 799, Case No. 1 of the Cadastral Survey of the Bureau of Lands, considering that she merely made an ocular inspection thereon. But it is already fait accompli. Nevertheless, in order for this case to be equitably decided, the Court is constrained to remand the case to the trial court.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CV No. 51819 is SET ASIDE. This case is REMANDED to the Regional Trial Court of Cagayan de Oro City, which is ordered to forthwith cause the resurvey of the boundaries on the property claimed by the parties based on their respective tax declarations by a team of surveyors to be appointed by it, and thereafter to decide the case accordingly.

No costs.

SO ORDERED.

Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1] Penned by Justice Salome A. Montoya, with Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico, concurring.

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[2] Entitled, “Heirs of Francisco Nabong, namely: Rosalino Cecilio, Leonides, Purification, Marciano and Realina, all surnamed Nabong, Plaintiffs-Appellees, vs. Pureza Anar, et al., Defendants-Appellants.

[3] Records, p. 2.

[4] Id., pp. 2-4.

[5] Id., p. 14.

[6] Id., pp. 82-86, Exhibits “A” to “C.”

[7] Id., pp. 491-492, Exhibits “1” and “2.”

[8] Id., pp. 411-412.

[9] Id., pp. 431-433.

[10] Id., p. 434.

[11] Id., p. 559.

[12] Rollo, p. 41.

[13] Records, p. 1.

[14] Id., pp. 82-86, Exhibits “A” to “C.”

[15] Id., pp. 491-492, Exhibits “1” and “2.”

[16] CA Rollo, pp. 53-54.

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