

MR. AND MRS. ALEJANDRO PANG-ODEN, PETITIONERS, VS. ISABEL LEONEN, CATALINA G. LEONEN, CAYETANO LEONEN, MANUEL LEONEN, ANGEL LEONEN, MARIA LEONEN, HERMINIA LEONEN, TERESITA L. AC...

G.R. NO. 138939. December 06, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner-spouses Alejandro Pang-oden and Saturnina Pang-oden assail and seek to set aside the decision[1] dated June 8, 1998 of the Court of Appeals (CA) in CA-G.R. CV No. 54494, as reiterated in its Resolution[2] of January 7, 1999, denying the petitioners' motion for reconsideration.

The assailed decision affirmed an earlier decision[3] of the Regional Trial Court (RTC) of Balaoan, La Union, Branch 34, in Civil Case No 440, an action for Recovery of Possession Based on Ownership, thereat commenced by the herein respondents against the petitioners.

Basically, the case involves a boundary dispute between petitioners and respondents. Both claim ownership of a strip of land consisting of 1,336.5 square meters.

The facts:

Petitioners and respondents are the owners of two (2) adjoining parcels of land located at Sudipen, La Union. Petitioners' land is at the eastern portion while that of the respondents is at the western side. The two properties have a common boundary: a creek which ran from south to north, such that petitioners' property was bounded by said creek on the west, while that of respondents was bounded by the same creek on the east.

Due to constant heavy rains and flood, water from the creek overflowed and destroyed the irrigation canal located at the north of the property in dispute. In order to minimize the damage to the irrigation canal, the National Irrigation Administration (NIA) diverted the course of the creek so rain water will not go directly to the irrigation canal. As a result, the course of the creek which originally ran from south to north and which used to separate the respective properties of the parties was instead diverted to run from south to northwest, passing through the middle portion of the respondents' property and resulting to the formation of a new creek. Consequently, the NIA asked the permission of Manuel Leonen, one of the herein respondents, to allow it to use the new creek as an irrigation canal. Manuel Leonen consented. The portion segregated by the new creek, consisting of 1,336.5 square meters, is the strip of land subject of this controversy.

According to the respondents, the property in question forms part of a bigger parcel of land with an area of 5,370 square meters declared in the name of their father and predecessor-in-interest, Dionisio Leonen, under Tax Declaration No. 6473. For more than 50 years, they have been in quiet, peaceful, adverse and uninterrupted possession of the disputed property. Sometime in 1976, however, Manuel Leonen saw the carabao of petitioner

Alejandro Pang-oden devouring the Leonens' sugar cane crops planted on the property in question. It was then that Manuel Leonen discovered that petitioners had encroached on the 1,336.5-square meter portion of their property and had in fact occupied the same. Respondents brought the matter before the local barangay authorities but Alejandro Pang-oden refused to surrender possession of said portion claiming that he is the lawful owner thereof.

On September 25, 1992, after repeated demands to vacate the subject strip of land remained unheeded, the respondents filed a complaint for Recovery of Possession Based on Ownership against the spouses Alejandro and Saturnina Pang-oden before the RTC of Balaoan, La Union, thereat docketed as Civil Case No. 440.

In their Answer with Counterclaim, the spouses Alejandro and Saturnina Pang-oden claimed that the 1,336.5-square meter strip of land in question was part of a bigger property with an area of 12,674-square meters originally owned by Alejandro's mother, Sotera Apusen, under Tax Declaration No. 4506. They also averred that it was around the year 1950 when Manuel Leonen started cultivating the subject strip of land and planted crops thereon, but only upon the mere tolerance of Alejandro's mother.

On November 23, 1995, the RTC rendered judgment for the respondents as plaintiffs thereat, adjudging the latter to be the lawful and exclusive owners of the property in question, and ordering the spouses Pang-oden to vacate the same and pay the respondents the amount of P1,000.00 representing the yearly harvest of the land; P10,000.00 as attorney's fees; P10,000.00 as moral damages; and P5,000.00 as litigation expenses.

From the adverse decision of the trial court, the spouses went on appeal to the CA in CA G.R. CV No. 54494. On June 8, 1998, the CA came out with its herein challenged decision affirming that of the trial court, minus the award of P1,000.00 for the yearly harvest of the land, thus:

WHEREFORE, the appealed Decision is AFFIRMED with the MODIFICATION that the order to pay xxx the amount of P1,000.00 representing the yearly harvest of the land from 1989 up to the time ownership and possession is finally restored is SET ASIDE.

Costs against defendants-appellants.

SO ORDERED.

Partly says the CA in its decision:

Based on the evidence submitted by plaintiffs-appellees [herein respondents], it was established that there was indeed an old creek that used to separate the properties of plaintiffs-appellees and the defendants-appellants [herein petitioners] which originally ran from south to north. It has likewise been established by overwhelming evidence that a new creek was later created that now runs from south to northwest and thus cuts through plaintiffs-appellees' property.

xxx xxx xxx

These witnesses are, as aptly noted by the trial court, "disinterested witnesses testifying to a fact of public knowledge that there was an original creek in the eastern boundary of the property of Dionisio Leonen." Their testimonies were properly found to be credible as they were consistent with the cadastral survey and the survey plan submitted by plaintiffs-appellees.

xxx xxx xxx

xxx. And by the creation of the new creek that cuts through the property of plaintiffs-appellees, defendants-appellants cannot claim ownership of the segregated portion (subject of this case) because as far as their property is concerned, the parcel of land left by Sotera Apusen remains bounded on the west by the old

creek and cannot extend to the portion segregated by the new creek. (Words in brackets added).[4]

Their motion for reconsideration having been denied by the appellate court in its Resolution of January 7, 1999, the spouses Pang-oden are now with this Court via the instant recourse, contending that the CA gravely erred:

I

XXX IN AWARDING THE OWNERSHIP OF THE PROPERTY IN SUIT (1,336.5 SQ. M. IN AREA) LOCATED WITHIN SITIO PANGASAAN, NAMALTUGAN, SUDIPEN, LA UNION, TO RESPONDENTS WHEN THEIR PROPERTY IS LOCATED AT SITIO BIMMODET, NAMALTUGAN, SUDIPEN LA UNION.

II

XXX IN AFFIRMING THE AWARDS OF P10,000.00 AS ATTORNEY'S FEES, P10,000.00 AS MORAL DAMAGES AND P5,000.00 AS LITIGATION EXPENSES TO RESPONDENTS.

III

XXX IN NOT REVERSING THE DECISION OF THE TRIAL COURT SINCE RESPONDENTS' COMPLAINT LACKS THE REQUIRED QUANTUM OF PROOF AND THE TESTIMONY OF THEIR WITNESSES ARE NOT IN HARMONY WITH THE STATE OF AFFAIRS IN THE LOCALITY.[5]

We DENY.

In the main, the only issue to be resolved is: who, as between the petitioners and the respondents, own the strip of land subject of the suit.

Petitioners contend that no new creek was created and that the present creek is the same creek which bounds their property on the west, thus making them the owners of the property in question. Likewise, the petitioners argue that both the trial and appellate courts should have relied on the boundaries and exact location of the subject property. Finally, they fault the CA for giving credence to the conflicting testimonies of the respondents' witnesses.

In assailing the appellate court's decision, petitioners impute errors which basically involve questions of fact and the appreciation of evidence by the two courts below. This case furnishes another occasion for us to reiterate the settled principle that this Court's jurisdiction in a petition for review under Rule 45 is limited to reviewing and correcting only errors of law, not of fact, the only power of the Court being to determine if the legal conclusions drawn from the findings of fact are correct.[6] Absent any showing that the findings complained of are totally devoid of support from the evidence on record, or that the judgment itself is based on misapprehension of facts, such findings must stand. The Court is not expected or required to examine or refute the oral and documentary evidence submitted by the parties.[7] The Court finds no reason to depart from this settled rule, it appearing that the findings of fact by the courts a quo are fully substantiated by the evidence extant on record. Likewise, the Court has consistently ruled that the findings of fact by the CA, especially if such findings, as here, are affirmatory of those of the trial court, will not be disturbed on appeal.[8]

The CA and the trial court relied on the testimonies of two (2) disinterested witnesses: Gregorio Libao, a retired employee of the NIA, and Anacleto Dicta-an, a resident of Sudipen, La Union. Both testified as to the existence of an old creek which served as the common boundary of the respective properties of the parties, and of the subsequent diversion of the creek to its present position which now cuts through the middle portion of the respondents' property. Petitioners insist, however, that their testimonies are replete with inconsistencies and contradictions which render said testimonies unworthy of belief. The Court disagrees. The two courts below both

found their testimonies credible. Matters of credibility of witnesses are best addressed to the sound judgment of the trial court, and this Court generally defers to the trial court's assessment because it has the singular opportunity to observe the demeanor of witnesses and their manner of testifying.[9] Besides, as correctly pointed out by the CA, the inconsistencies cited by the petitioners refer to minor and collateral matters which do not affect the credibility of said witnesses.

For sure, the witnesses' testimonies were amply supported by the report and sketch plan prepared by the court-appointed commissioner, which revealed the existence of an old creek running from south to north, and the creation of a new creek from south to northwest. The same sketch plan showed that the location of the house of Sotera Apusen, mother of petitioner Alejandro Pang-oden, was bounded on the west by the old creek, which creek bounds the lot of Dionisio Leonen on the east. This bolsters the fact that there was indeed an old creek which used to separate the respective properties of the herein parties.

Worth mentioning is the provision of Article 434 of the Civil Code which ordains that "in an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim." Hence, in order that an action for the recovery of property may prosper, it is indispensable that the party who prosecutes it must fully prove, not only his ownership of the thing claimed, but also the identity of the same.[10] As we see it, the evidence presented in this case showed that the property subject of the dispute rightfully belongs to the respondents, as it was established that the same is part of the parcel of land declared under the name of respondents' predecessor-in-interest, Dionisio Leonen. Indeed, the verification survey of the contested property conducted by Juvenal Quitoriano, a geodetic engineer, revealed that it was in the name of Dionisio Leonen. Too, the identity of the disputed strip of land has been proven in a conclusive manner as its location corresponds with those given by the witnesses and the record of the ocular inspection. The cadastral survey of the property clearly identifies and delineates the extent of the subject land. As the petitioners failed to substantiate their claim that the present creek is still the same creek which bounds their property on the west, the respondents have the right to recover possession of the disputed strip of land.

In sum, the evidence on record clearly establish that there used to be an old creek originally running from south to north and separating the property of the petitioners from that of the respondents. Then, due to expediency and necessity of protecting the irrigation canal in the area, the course of that creek was subsequently diverted to run from south to northwest, cutting through the property of the respondents. Hence, the portion segregated (the subject property) from respondents' land as a result of such diversion continues to be their property and they shall retain ownership of the same.

We are, however, with the petitioners in their challenge as regards the trial court's award of moral damages, attorney's fees and expenses of litigation, as affirmed by the CA. As it is, the trial court erred in this respect, as it did not disclose in the body of its decision the factual basis for such awards. Whenever such awards are made, the court must explicitly state in the body of its decision, and not merely in its dispositive portion, the legal reason for the award.[11] Here, the trial court made the award only in the dispositive portion of its decision without stating the basis therefor in the body thereof. The power of courts to grant damages and attorney's fees demands factual, legal and equitable justification; its basis cannot be left to speculation or conjecture.[12]

WHEREFORE, the instant petition is DENIED and the assailed CA decision dated June 8, 1998 is AFFIRMED, with the MODIFICATION that the award of moral damages, attorney's fees and litigation expenses is DELETED.

Costs against the petitioners.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, and Azcuna, concur.

Corona, J., on leave.

[1] Penned by Associate Justice Salome A. Montoya (now ret.), with Associate Justice Delilah Vidallon-Magtolis (ret.) and Associate Justice Rodrigo V. Cosico, concurring; Rollo, pp. 35-44.

[2] Id. at 92.

[3] Id. at 66-76.

[4] Id. at 38, 42-43.

[5] Id. at 14-15.

[6] Pacific Airways Corporation v. Tonda, G.R. No. 138478, November 26, 2002, 392 SCRA 625.

[7] Nazareno v. Court of Appeals, G.R. No. 138842, October 18, 2000, 343 SCRA 637.

[8] Bañas, Jr. v. Court of Appeals, G.R. No. 102967, February 10, 2000, 325 SCRA 259.

[9] People v. Mendoza, G.R. Nos. 143844-46, November 19, 2002, 392 SCRA 240.

[10] Salacup v. Rambac, G.R. No. 5730, September 9, 1910, 17 Phil. 22.

[11] Scott Consultants & Resource Development Corporation, Inc. v. Court of Appeals, G.R. No. 112916, March 16, 1995, 242 SCRA 393; People v. Castro, G.R. No. 122671, November 18, 1997, 282 SCRA 212.

[12] Ranola v. Court of Appeals, G.R. No. 123951, January 10, 2000, 322 SCRA 1.

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