

LINA ABALON LUBOS, PETITIONER, VS. MARITES GALUPO, DELIA GALUPO, JUAN GALUPO, PRUDENCIO GALUPO, PRECIOSA GALUPO AND MANSUETO GALUPO, JR., RESPONDENTS.

G.R. No. 139136. January 16, 2002

Ponente: PARDO, J.

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PARDO, J.:

The Case

In this appeal,[1] petitioner seeks to set aside the decision of the Court of Appeals[2] affirming that of the Regional Trial Court,[3] Makati, Branch 66, ruling that respondents are the absolute owners of the parcel of land involved in the complaint.

The Facts

The facts, as found by the Court of Appeals, are as follows:

“The subject of the said case is a parcel of land with an area of 10.8224 hectares, more or less, located in Sitio Naganaga, Barrio Cababtuan, Municipality of Pambujan, Northern Samar, originally tax declared in the name of Victoriana Dulay in Tax Declaration No. 17056 (Exh. ‘A’).

“The plaintiffs claim that on January 28, 1928, in a private instrument written in Spanish entitled ‘Escritura de Compra y Venta’ (Exh. ‘B’), Victoriana Dulay and her son Restituto D. Merino sold the said property to Juan Galupo. On the death of Juan Galupo, the same was inherited by his son Mansueto Galupo, Sr., who, in 1952, obtained the cancellation of Tax Declaration No. 17056 and the issuance of Tax Declaration No. 24041 (Exh. ‘C’) in lieu thereof in his name. The said Tax Declaration was superseded in 1985 by Tax Declaration No. 3393 (Exh. ‘D’) pursuant to the general revision under P.D. 1621.

“Mansueto Galupo, Sr. died in 1981. The plaintiffs are his children out of two marriages.

“The plaintiffs complain that in 1984, they discovered the land to be occupied by the tenant farmers of defendant Lina Abalon Lubos. They checked with the Office of the Municipal Assessor, and they found that the original Tax Declaration No. 17056 had been ‘re-assessed’ by Lina Abalon Lubos, who obtained a new Tax Declaration No. 34286 (Exh. ‘3’) in her name, while Tax Declaration No. 24041 in their father’s name had been removed from the files. On or about November 16, 1990, Lina Abalon Lubos sold a portion of the said land to Alicia Poldo, married to Teresita Poldo (Exh. ‘H’). The plaintiffs sought the annulment of the said sale, and a declaration that they are the lawful owners of the land.

“On the other hand, defendant Lina Abalon Lubos contends that the subject land was originally owned by Victoriana Dulay alone, who is her great grandmother. Victoriana Dulay sold the property to her father Juan F. Abalon. Her father possessed the property for over thirty (30) years until 1975, when he sold the same to her (Exh. ‘5’). Consequently, she caused the cancellation of Tax Declaration No. 17056 and she obtained Tax Declaration No. 34286 in her name. Subsequently, she sold a portion of the property to the spouses Poldo, who claim to be purchasers in good faith.”[4]

On November 26, 1992, the trial court rendered a decision, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against the defendants by:

“1. Declaring the plaintiffs as the exclusive and absolute owners of the parcel of land described and delimited in their complaint, as amended;

“2. Declaring the sale executed by co-defendant Lina Abalon-Lubos (Exh. “5”) of the portion of the land in question, measuring 26, 670 square meters (2-66-70 Has.), as null and void ab initio;

“3. Ordering the cancellation of Tax Declaration No. 34286 and Tax Declaration No. 703, both in the name of Lina Abalon-Lubos, as owner, for the land in question, in the book of assessment of real properties in the office of the municipal assessor of either San Roque or Pambujan, Northern Samar, and in the office of the Provincial Assessor of Northern Samar;

“4. Condemning the defendants Lina Abalon-Lubos and Alicia Poldo and Teresita Poldo, jointly and severally, to pay the plaintiffs the sum of FIFTY THOUSAND (P50,000.00) Pesos, in moral damages aggregately for all of them; P10,000.00, as attorney’s fees and P3,000.00 as litigation expenses; and,

“5. Commanding the defendants to vacate from the premises in question, and to peacefully deliver the same to the possession of plaintiffs, with costs against the defendants.

“SO ORDERED.

“Laoang, Northern Samar, Nov. 26, 1992.

“(sgd.) MATEO M. LEANDA

“Judge”[5]

Petitioner Lubos and the spouses Poldo appealed the decision to the Court of Appeals.[6]

On August 29, 1997, the Court of Appeals promulgated a decision[7] affirming in toto the decision of the trial court.

On October 21, 1997, Lubos filed with the Court of Appeals a motion for reconsideration[8] of the decision. However, the Court of Appeals denied the motion.[9]

Hence, this appeal.[10]

The Issue

The issue is, who as between the parties have a better right or title to the subject lot?

The Court’s Ruling

We deny the petition. The issue raised is factual.

It is a well-settled rule that factual findings of the trial court, adopted and confirmed by the Court of Appeals, are final and conclusive and may not be reviewed on appeal.[11]

Article 1141, Civil Code, governs prescription of real action over immovables. It provides:

“Real actions over immovables prescribe after thirty years.

“This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription.”

To determine if the respondents may still file an action to recover realty it becomes necessary to determine if

petitioner Lubos has acquired the land by acquisitive prescription.

Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary, depending on whether the property is possessed in good faith and with just title for the time fixed by law.[12]

Articles 1134 and 1137 of the Civil Code fixed the periods of possession, which provide:

“Art. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years.

“Art. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.”

For the purposes of prescription, there is just title when the adverse claimant came into possession of the property through one of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor was not the owner or could not transmit any right.[13] On the other hand, good faith consists in the reasonable belief that the person from whom the possessor received the thing was its owner but could not transmit the ownership thereof.[14]

The trial court found that the contract entered into between petitioner Lubos and her father, Juan Abalon, was fictitious, to which we agree. Consequently, petitioner has not acquired a just title to the property.

Petitioner’s lack of good faith was also apparent.

Petitioner Lubos has not offered any documentary proof of the transaction between her father and Victoriana Dulay, the original owner. What she presented were the testimonies of the tenants who worked on the land.[15] From these testimonies, it would appear that Juan Abalon was in possession as early as 1963.

Note, however, that the nature of Juan Abalon’s possession cannot be categorically determined from the testimonies given. Tenant Jose Morillo admitted that he did not exactly know who the owner is, while tenant Arturo Tuballas admitted that he did not know how Juan Abalon came to possess the land.

The property was still declared in the name of Victoriana Dulay at the time that Juan Abalon sold the land to petitioner Lubos.[16]

Acquisitive prescription is a mode of acquiring ownership by a possessor through the requisite lapse of time. In order to ripen into ownership, possession must be in the concept of an owner, public, peaceful and uninterrupted. Thus, possession with a juridical title, such as by a usufructuary, a trustee, a lessee, agent or a pledgee, not being in the concept of an owner, cannot ripen into ownership by acquisitive prescription unless the juridical relation is first expressly repudiated and such repudiation has been communicated to the other party.[17]

Assuming that Lina Abalon and her father possessed the property in the concept of owner, still, acquisition of ownership by prescription has not run in their favor.

When the respondents filed the instant case on October 10, 1991, petitioner Lubos was in possession of the property for only twenty-eight (28) years counted from 1963 as testified to by petitioner’s witnesses. This is short of the required thirty years of uninterrupted adverse possession without just title and good faith.

The respondent Galupos, on the other hand, presented the escritura de compra y venta which showed that the land was sold by Victoriana Dulay to Juan Galupo.[18] Upon Juan Galupo’s death, the property was inherited by his heir, Mansueto Galupo, Sr. Likewise, respondents inherited the land from their father upon the latter’s death in 1981.

The trial court admitted the escritura de compra y venta as an ancient document.

Petitioner assails the admission of the escritura de compra y venta as there was no translation thereof. Petitioner further claimed that the authenticity and due execution of the escritura de compra y venta must be proven. She further assails the relevance of the said document for failure to show that the land described therein is the same land subject of the present controversy.

With respect to the admissibility of the escritura de compra y venta, we agree with the Court of Appeals that it is admissible even if not translated from its Spanish text because it was not objected to and was an ancient document.[19]

Obviously, petitioner has failed to establish the chain of title through which the land passed to her. As heretofore stated, no proof was presented to show that, indeed, the land was transferred from its original owner, Victoriana Dulay, to petitioner's father, Juan Abalon.

In contrast, the respondents have shown that the land came to their possession as heirs of Mansueto Galupo, Sr. who was the heir of Juan Galupo, the person to whom Victoriana Dulay transferred the land.

The Fallo

WHEREFORE, the Court DENIES the petition and AFFIRMS the decision of the Court of Appeals.[20]

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Under Rule 45, Revised Rules of Court.

[2] In CA-G. R. CV No. 41374 promulgated on August 29, 1997, Petition, Annex "A", Rollo, pp. 38-47. Hector L. Hofileña, J., ponente, Romeo J. Callejo, Sr. and Demetrio G. Demetria, JJ., concurring.

[3] In Civil Case No. 1438, dated November 26, 1992, CA Rollo, pp. 60-72, Judge Mateo M. Leanda, presiding.

[4] Rollo, pp. 38-47, at pp. 39-40.

[5] Decision, Original Record, Civil Case No. 1438, pp. 175-187, at pp. 186-187.

[6] Notices of Appeal, Original Record, Civil Case No. 1438, pp. 188 and 190. Docketed as CA-G. R. CV No. 41374.

[7] Petition, Annex "A", Rollo, pp. 38-47.

[8] CA Rollo, pp. 157-173.

[9] Petition, Annex "B", Rollo, pp. 49-53.

[10] Filed on August 19, 1999. Rollo, pp. 8-36. On October 27, 1999, we resolved to give due course to the petition (Rollo, pp. 73A-73B).

[11] *Manufacturers Building, Inc. v. Court of Appeals*, G. R. No. 116847, March 16, 2001, citing *Gonzales v. Court of Appeals*, 358 Phil. 806 (1998), *Lagandaon v. Court of Appeals*, 352 Phil. 928 (1998), *Halili v. Court of Appeals*, 350 Phil. 906 (1998), *Salao v. Court of Appeals*, 348 Phil. 529 (1998)

[12] *Heirs of Seraspi v. Court of Appeals*, 331 SCRA 293, 299 (2000), citing Article 1117, Civil Code.

[13] Article 1129, Civil Code.

[14] *Heirs of Seraspi v. Court of Appeals*, 331 SCRA 293, 300 (2000), citing Civil Code, Article 1127.

[15] TSN, September 24, 1992 and November 24, 1992, pp. 26-61.

[16] Exhibit “5”, Original Record, Civil Case No. 1438, p. 171.

[17] *Tay v. Court of Appeals*, 355 Phil. 381, 401 (1998), citing *Compendium of Civil Law and Jurisprudence*, 1993 ed., pp. 463-464.

[18] Exhibit “B”, Original Record, Civil Case No. 1438, p. 132.

[19] Decision, CA Rollo, pp. 147-156, at pp. 152-153.

[20] In CA-G. R. CV No. 41374 and its resolution denying reconsideration.

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