

CONCHITA QUINAO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, REP. BY THE OFFICE OF THE SOLICITOR GENERAL, AND FRANCISCO DEL MONTE, RESPONDENTS.

G.R. No. 139603. July 14, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is a petition for review on certiorari seeking the reversal of the Decision, dated 14 January 1999, of the Court of Appeals in CA-G.R. CR No. 19412 which affirmed the decision of the Regional Trial Court (RTC), Eighth Judicial Region, Branch 21, Laoang, Northern Samar finding herein petitioner Conchita Quinao and Salvador Cases guilty of the crime of Usurpation of Real Property. Likewise sought to be reversed is the Resolution, dated 30 June 1999, of the appellate court denying petitioner's motion for reconsideration.

The Information filed against petitioner and Cases read as follows:

That on or about the 2nd day of February, 1993, at about 9:00 o'clock in the morning, more or less, at Sitio Bagacay, Bgy. Petong, Lapinig, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to gain, with the use of force and intimidation, did, then and there wilfully, unlawfully and feloniously usurped [sic] and occupied [sic] a real property owned by FRANCISCO F. DEL MONTE, and while there gathered 12,000 coconuts and converted it into copra [sic] and sold the same in the amount of P14,580, to the damage and prejudice to the said owner in the total amount of FOURTEEN THOUSAND FIVE HUNDRED EIGHTY (P14,580.00) PESOS, Philippine Currency.

CONTRARY TO LAW.[1]

At the arraignment, both accused pleaded not guilty. Trial ensued. The facts established during the trial are as follows:

As borne out by the evidence, both the accused and private complainant are claiming ownership over the land in question. Private complainant Francisco Delmonte submitted and offered in evidence Tax Declaration No. 1202 (Exh. "D") in the name of Petre Delmonte, the predecessor-in-interest of complainant. This Tax Declaration No. 1202 cancels Tax Declaration No. 18612 which shows that the land covered by Tax Declaration No. 1202 is the same land litigated and awarded to the predecessor-in-interest of the complainant in Civil Case No. 3561. The decision in Civil Case No. 3561 shows that the land being claimed by the accused was already litigated and awarded to the parents of the complainant in Civil Case No. 3561.

The accused-appellant, on the other hand, presented Tax Declaration No. 1195 (Exh. "1") in the name of Lorenzo Cases Leoniso dated January 25, 1993. He alleged that the land being claimed by the complainant in the present criminal case is different from the land litigated in Civil Case No. 3561 and that the land subject of Civil Case No. 3561 which came from Angel Pelison is now in the possession of the complainant.

The parties presented witnesses during the hearing of the case to buttress their claims. Complainant's witness

Bienvenido Delmonte declared that on February 2, 1993 at around 9 o'clock in the morning while he was busy working in the agricultural land which he owns in common with complainant Francisco Delmonte, accused Salvador Cases and Conchita Quinao, together with their other close relatives suddenly appeared and while there, with the use of force, violence and intimidation, usurped and took possession of their landholding, claiming that the same is their inheritance from their ascendants and while there, accused immediately gathered coconuts and made them into copra. Complainant was forcibly driven out by the accused from their landholding and was threatened that if he will try to return to the land in question, something will happen to him. Complainant was thus forced to seek assistance from the Lapinig Philippine National Police.

Complainant's witness further declared that the actual primitive owner of the land in question was Angel Pelison but the land was purchased by his grandfather Petre Delmonte. The land is situated at Sitio Bagacay, Brgy. Potong, Lapinig, N. Samar with an area of 9 ½ hectares, bounded on the East by the properties of Roman Vernas and Marcelino Delmonte; on the North by Dimas Moscota; on the West by Alcantara and on the South by Bagacay group (tsn, pp. 31-32, April 20, 1994)

Accused Salvador Cases and Conchita Quinao testified for the defense. They claimed that they are the grandchildren of Lorenzo Cases; that during the lifetime of their grandfather, he acquired the real property in question and declared the same in his name under Tax Declaration No. 1195 (Exh. "1"); that the land has an area of 6 hectares, 34 centares and 28 ares and is devoted to rice and coconut; that they are in actual possession of the land and paid realty taxes thereon; that the father of accused Conchita Quinao was Pedro Cases, the son of Lorenzo Cases; that the land is located in Brgy. Potong, Lapinig, Northern Samar; and that the boundaries are as follows: on the North: Dimas Moscota; on the East: Petre Delmonte; on the South: Ananias Delmonte; and on the West: Bagacay River.[2]

The trial court rendered judgment the dispositive portion of which reads as follows:

WHEREFORE, premises considered, the Court hereby finds both accused guilty of the crime of Usurpation of Real Rights in Property, defined and penalized under Art. 312 of the Revised Penal Code, beyond reasonable doubt and hereby sentences both of them jointly and severally, to pay a fine in the amount of One Hundred Seventy Four Thousand and Nine Hundred Sixty (P174,960.00) Pesos which amount is equivalent to the gain which said accused have obtained in a period of almost three (3) years from the time they forcibly took possession of this land belonging to Francisco Delmonte computed at the rate of P14,580.00 per quarter proceeds from the produce of the land as alleged in the Information.

The accused are further sentenced not to enter or intrude upon this property rightfully adjudged to belong to Francisco Delmonte, private complainant herein and they are ordered under pain of imprisonment for Contempt of Court, to Cease and Desist forever from disturbing or molesting the peaceful and quiet possession and ownership of the herein private offended party over the property subject of litigation. The Chief of Police of the PNP, Lapinig, Northern Samar, is hereby ordered to assist the private offended party in his possession of the herein property and see to it that he is not disturbed or molested in such state, and in implementing this directive, the Chief of Police may, in his discretion, use reasonable force necessary to carry out this decision. Let a copy of this decision be furnished the Chief of Police of Lapinig, N. Samar.

No pronouncement as to costs.

SO ORDERED.[3]

Upon a notice of death filed only on 25 September 1997, it was learned that accused Cases died on 9 April 1995.

Petitioner appealed her conviction to the CA. The appellate court, however, affirmed the decision of the trial court. Petitioner filed a motion for reconsideration thereof but the CA denied the same.

Before this Court, petitioner assails the decision of the CA raising the following issues:

I

WHETHER OR NOT THE ACCUSED-PETITIONER WHO IS A WOMAN OF AN ADVANCE AGE COULD BE HELD LIABLE OF THE CRIME OF USURPATION OF REAL PROPERTY ON THE BASIS OF THE BARE ALLEGATION OF CONSPIRACY AND WHICH CONCLUSION WAS BASED ON SPECULATIONS, SURMISES AND CONJECTURES;

II

WHETHER OR NOT THE ALLEGED FORCE AND INTIMIDATION WHICH TOOK PLACE SUBSEQUENT TO THE ALLEGED ENTRY INTO THE PROPERTY WILL SUFFICE TO CONVICT THE ACCUSED-PETITIONER OF THE CRIME OF USURPATION OF REAL PROPERTY;

III

WHETHER OR NOT THE ACCUSED-PETITIONER WHO CLAIMS TO BE OWNER OF THE LAND IN QUESTION COULD BE HELD LIABLE OF USURPATION OF HER OWN PROPERTY.[4]

The petition is bereft of merit.

Contrary to petitioner's allegation, the decision rendered by the trial court convicting her of the crime of usurpation of real property was not based on "speculations, surmises and conjectures" but clearly on the evidence on record and in accordance with the applicable law. Article 312 of Revised Penal Code defines and penalizes the crime of usurpation of real property as follows:

Art. 312. Occupation of real property or usurpation of real rights in property. - Any person who, by means of violence against or intimidation of persons, shall take possession of any real property or shall usurp any real rights in property belonging to another, in addition to the penalty incurred for the acts of violence executed by him shall be punished by a fine from P50 to P100 per centum of the gain which he shall have obtained, but not less than P75 pesos.

If the value of the gain cannot be ascertained, a fine from P200 to P500 pesos shall be imposed.

The requisites of usurpation are that the accused took possession of another's real property or usurped real rights in another's property; that the possession or usurpation was committed with violence or intimidation and that the accused had *animo lucrandi*. In order to sustain a conviction for "usurpacion de derecho reales," the proof must show that the real property occupied or usurped belongs, not to the occupant or usurper, but to some third person, and that the possession of the usurper was obtained by means of intimidation or violence done to the person ousted of possession of the property.[5]

More explicitly, in *Castrodes vs. Cubelo*,[6] the Court stated that the elements of the offense are (1) occupation of another's real property or usurpation of a real right belonging to another person; (2) violence or intimidation should be employed in possessing the real property or in usurping the real right, and (3) the accused should be animated by the intent to gain.[7]

Thus, in order to absolve herself of any liability for the crime, petitioner insists that the elements of the crime are not present in this case. Specifically, she maintains that she owns the property involved herein. The matter on the ownership of the lot in question, however, had long been settled when, in Civil Case No. 3561 (ownership of real property) involving the predecessors-in-interest of private complainant and that of accused Cases, the Court of First Instance of Samar, Branch III, Thirteenth Judicial Region, adjudicated said lot to private complainant's predecessors-in-interest.[8]

Further, as established by the commissioner appointed by the trial court to look into petitioner's defense, i.e, she

owns the lot subject of this criminal case, the area being claimed by petitioner is the same area adjudicated in Civil Case No. 3561. Deputy Sheriff A. Anacta, as commissioner, made the following the report:

Taking the matter in relation to the order of the Honorable Court dated February 1, 1994 which is the basis of this commission, which merely directs the undersigned to find out if the area claimed by by the accused encroached the area of the plaintiffs, then, based from the above findings and the herein sketch, it is indeed very clear that the area claimed by the accused encroached the area of the plaintiffs.[9]

The foregoing findings of the commissioner was adopted by the trial court and the latter subsequently convicted petitioner for the crime of usurpation of real property. This findings of the commissioner was affirmed by the CA stating, thus:

Based on the above findings and the sketch maps submitted, it is clear that the disputed land which is the red shaded area (Exh. "B-2") is within the boundary of the land awarded to the complainant in Civil Case No. 3516 [should be 3561]. The issue of ownership over the land in question having been decided in Civil Case No. 3516 [should be 3561] in favor of the complainant in 1949, the same will not be disturbed. The accused has to respect the findings of the court.[10]

We fully agree with the findings of both the trial court and the CA on the issue of the ownership of the lot involved in this case. The evidence on record sufficiently refuted petitioner's claim of ownership.

The next issue that needs to be resolved is whether the other requisites of the usurpation of real property are attendant in this case. These two (2) other requisites are: the employment of violence in acquiring possession over the real property or in usurping the real right and accused was animated by intent to gain.[11] On this point, the trial court and the CA ruled in the affirmative citing the testimony of prosecution witness Bienvenido Delmonte as follows:

x x x

Complainant's witness Bienvenido Delmonte declared that on February 2, 1993 at around 9 o'clock in the morning while he was busy working in the agricultural land which he owns in common with complainant Francisco Delmonte, accused Salvador Cases and Conchita Quinao, together with their other close relatives suddenly appeared and while there, with the use of force, violence and intimidation, usurped and took possession of their landholding, claiming that the same is their inheritance from their ascendants and while there, accused immediately gathered coconuts and made them into copra. Complainant was forcibly driven out by the accused from their landholding and was threatened that if he will try to return to the land in question, something will happen to him. Complainant was thus forced to seek assistance from the Lapinig Philippine National Police.[12]

It is well settled that "factual findings of the CA are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court." [13] Petitioner failed to give any cogent reason for this Court to deviate from this salutary principle.

Finally, the fact that the judge who tried the case was different from the judge who penned the decision does not in any way taint the same. Indeed, "the efficacy of a decision is not necessarily impaired by the fact that its writer only took over from a colleague who had earlier presided at the trial, unless there is showing of grave abuse of discretion in the factual findings reached by him." [14] There is no such showing in this case.

WHEREFORE, premises considered, the Petition is hereby DENIED for lack of merit. The decision of the Court of Appeals in CA-G.R. CR No. 19412 is affirmed in toto.

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

[1] Rollo, p. 34-35.

[2] CA Decision, pp. 4-5; Rollo, pp. 37-38.

[3] Id., at 35.

[4] Id., p. 13.

[5] Aquino, Revised Penal Code, Volume III, 1988 Edition, p. 222.

[6] 83 SCRA 670 (1978)

[7] Ibid., p. 674.

[8] Rollo, pp. 52-54.

[9] Id., at 38-39.

[10] See Note 2, p. 6; Rollo, p. 39.

[11] See Note 6.

[12] See Note 2.

[13] Boneng vs. People, 304 SCRA 252 (1999); Fortune Motors (Phils.) Corp. vs. CA, 267 SCRA 653 (1997)

[14] People vs. Gementiza, 285 SCRA 478 (1998)

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