

EFREN TANDOG, FELIX TANDOG, FELIPE TANDOG, JOSEFINO TANDOG, HELEN TANDOG, CATALINA TANDOG, ROMEO TANDOG, DOMINGO TANDOG, CATALINA SANTOS, MARIA BAUTISTA CATANYAG, ARTEMIO CATANY...

G.R. No. 144208. September 11, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Civil Procedure, as amended, assailing the Decision[1] dated July 31, 2000 of the Court of Appeals in CA-G.R. CV No. 57812.

The facts as found by the Court of Appeals are:

The subject of the controversy is a land consisting of 147,991 square meters situated at Sitio Inarawan, Barangay Inuman, San Isidro, Antipolo City.

The above-named petitioners claim that they and their predecessors-in-interest have been in actual, open, continuous, exclusive, and notorious possession of the land since time immemorial. They trace their rights to Casimiro Policarpio, unmarried, who died in 1945. He was survived by his nephews and nieces, now deceased, except Maria Bautista Catanyag. She and Casimiro's grand nieces and grand nephews (herein petitioners) have continued possessing and cultivating the land.

When petitioners decided to apply for the judicial registration of the property, they found that portions of the land have been occupied by spouses Alfonso and Marina Calderon and Renato Macapagal, respondents. According to petitioners, spouses Calderon used falsified documents to justify their possession of 20,116 square meters of the land which they sold to the government. For his part, Renato Macapagal applied for and was granted Free Patent No. 045802-1165 which led to the issuance to him of Original Certificate of Title (OCT) No. P-665 over an area of 18,787 square meters. Because of these incidents, petitioners filed with the Regional Trial Court, Branch 73, Antipolo City a complaint for quieting of title, docketed as Civil Case No. 92-2418.

Respondent Marina Calderon, in her answer, specifically denied petitioners' allegations in their complaint. She alleged that she and her husband bought their property in 1958 and, since then, have been in possession of the same. They planted trees and crops thereon. Also, they have been paying the corresponding realty taxes. She does not know petitioners who are all strangers in the place.

Before the hearing of the case, or on July 20, 1993, petitioners and Macapagal entered into a Compromise Agreement.[2] Petitioners acknowledged therein his ownership of the portions of the land consisting of 18,787 square meters covered by OCT No. P-665. This agreement was approved by the trial court.

After petitioners had presented their evidence, spouses Calderon filed a demurrer to evidence. In an Order dated March 20, 1995, the trial court granted their motion and dismissed the complaint.

On appeal by petitioners, the Court of Appeals rendered a Decision dated July 31, 2000 affirming the Order of the trial court dismissing their complaint. The appellate court held:

Under Article 476 of the Civil Code, a claimant must show that there is an instrument, record, claim, encumbrance or proceeding which constitutes or casts a cloud, doubt, question or shadow upon the owner's title to or interest in real property. The ground or reason for filing a complaint for quieting of title must therefore be "an instrument, record, claim, encumbrance or proceeding." Under the maxim "expresio unius est exclusio alterius," these grounds are exclusive so that other reasons outside of the purview of these reasons may not be considered valid for the same action. (Titong v. CA, G.R. No. 111141, March 6, 1998)

The appellants had nothing to show for this. The most that they did was to mark a DEED OF ABSOLUTE SALE OF REAL PROPERTY & OR RIGHTS OR INTERESTS THEREIN as Exh. "D" and a SPECIAL POWER OF ATTORNEY as Exh. "E", which allegedly are the falsified documents used by the appellees as basis for their claim over the subject lot. x x x

x x x

Under Section 34 of Rule 132 of the Rules of Court, it is clear that for the evidence to be considered, the same must be formally offered. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. (Vda de Oñate v. CA, G.R. 116149, Nov. 23, 1995) Any evidence which a party desires to submit for the consideration of the court must formally be offered by him, otherwise it is excluded and rejected. x x x

It does not help either that the testimonies presented are on the whole hearsay and unreliable as to the existence and right of the amorphous Casimero Policarpio and the hereditary link between him and the appellants.

Hence, this present petition.

Petitioners contend that the allegations of spouses Calderon that they purchased their property and Macapagal's claim that he applied for a Free Patent are judicial admissions which they (petitioners) consider as cloud upon their interest in the disputed property.

The petition must fail.

Article 476 of the Civil Code provides:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

As a general rule, a cloud which may be removed by suit to quiet title is not created by mere verbal or parol assertion of ownership of or an interest in property. This rule is subject to qualification, where there is a written or factual basis for the asserted right. Thus, a claim of right based on acquisitive prescription or adverse possession has been held to constitute a removable cloud on title.[3]

While petitioners alleged that respondents' claim of adverse possession is a cloud on their (petitioners') interest in the land, however, such allegation has not been proved. The alleged falsified documents relied upon by respondents to justify their possession were merely marked as exhibits but were never formally offered in evidence by petitioners. We have consistently ruled that documents which may have been marked as exhibits during the hearing, but which were not formally offered in evidence, cannot be considered as evidence, nor can

they be given any evidentiary value.[4]

It is important that petitioners must first establish their legal or equitable title to, or interest in the real property which is the subject matter of the action.[5] Petitioners failed to do so. Parenthetically, they did not present any evidence to prove that Casimiro Policarpio "existed" and that he is their predecessor-in-interest. Their testimonies can not be considered declarations about pedigree. In order that pedigree may be proved by acts or declarations of relatives under Section 39 of the Revised Rules of Evidence, it is necessary that (a) the actor or declarant is dead or unable to testify; (b) the act or declaration is made by a person related to the subject by birth or marriage; (c) the relationship between the declarant or the actor and the subject is shown by evidence other than such act or declaration; and (d) the act or declaration was made ante litem motam, or prior to the controversy.[6]

Records show that petitioners failed to establish by evidence any or all the above requisites.

WHEREFORE, we DENY the petition and AFFIRM the assailed Decision of the Court of Appeals in CA-G.R. CV No. 57812. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Roberto A. Barrios and concurred in by Associate Justice Ebulo G. Verzola (both deceased) and Associate Justice Eriberto U. Rosario, Jr. (retired); rollo, pp. 23-30.

[2] Annex "F" of the petition, id., pp. 107-108.

[3] Tolentino, Civil Code of the Philippines, Volume II, p. 152.

[4] Vda. De Flores, et al. v. WCC, et al., L-43316, July 21, 1977.

[5] Art. 477, Civil Code of the Philippines.

[6] Regalado, Remedial Law Compendium, 1997 edition, p. 646.

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