RAFAEL ALBANO, VENANCIO ALBANO AND EDWIN PATRICIO, PETITIONERS, VS. COURT OF APPEALS (SEVENTH DIVISION) AND IGLESIA FILIPINA INDEPENDIENTE ASSISTED BY BISHOP JUANITO FERRER, FR....

G.R. No. 144708. August 10, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

WITH A THOUSAND AND ONE INQUIETUDES then besetting the Roman Catholic Church, Monico Albano and Nemesio Albano strayed away from its flock and joined Bishop Gregorio Aglipay in his newly-founded congregation - the Iglesia Filipina Independiente ("IFI"). To express their piety and devotion to their new faith, sometime in 1908 the Albanos allowed the IFI to construct a small iglesia within a 1,854-square meter unregistered property in Vintar, Ilocos Sur, which their family had been occupying for years. In due time, a modest structure of sawali and cogon rose beside the Albanos' ancestral brick house.

In 1909, Fr. Platon de Villanueva, parish priest of Vintar, pleaded with the Albanos to donate to the congregation the property occupied by the iglesia. The pleas of Fr. Platon did not fall on deaf ears. On 21 June 1909 Vicente, son of Nemesio Albano, executed an instrument granting the assiduous priest with its administration. But Fr. Platon wanted more. He pursued the Albanos until the latter eventually transferred ownership in his favor.

Thus on 1 May 1910 Monico Albano and Vicente Albano executed a new document whereby they agreed, in exchange for a parcel of land, to transfer ownership of the Vintar property in favor of Fr. Platon. They agreed to give him sufficient time after the harvest to look for an arable land which could yield five (5) "uyones a pagay." It was further agreed that in the event Fr. Platon failed to deliver the parcel of land after the harvest and a new priest was sent over to manage the Vintar congregation, their agreement would be considered revoked.

Two (2) years later Fr. Platon de Villanueva passed away.

On 7 April 1916 Elena, Eulogia and Benigno Villanueva, sisters and brother of the deceased, as his surviving heirs, executed a document donating the Vintar property to the IFI. In December 1916 they executed another document bequeathing several properties of their deceased brother in favor of the Comite de Caballeros quen Damas of the IFI. In return, they asked that services be offered for the soul of their departed brother on the 22nd of July, November and December of every year.

Sometime in 1957 Fr. Loreto Balbas who took over as parish priest spoke before IFI devotees and inspired them to improve the condition of their chapel. Before long, through the efforts of the faithful under the leadership of Antonina Albano, Vicente's wife, the chapel was renovated and a convent was constructed nearby. Antonina capped the iglesia's expansion by donating a new bell.

Thereafter, Antonina appealed to Fr. Balbas that she be allowed to stay in the convent together with one Jovencia Foronda. Inasmuch as Antonina was an "important member of the church" and a devotee who had spent much for

its improvement, she was given lodging within church premises. A few months thereafter, Antonina and Jovencia put up a small sari-sari store inside the ruins of the old brick house.

A decade later, Venancio Albano, son of Vicente and Antonina, appealed to the IFI to allow his brother Rafael to stay within the old brick house. Upon consultation with church elders, Bishop Lagasca readily acceded to Venancio's request. Forthwith, Rafael repaired the crumbly brick house and made it habitable. Years later, his son-in-law, Edwin Patricio, came and occupied the northwestern portion of the lot. Together, they constructed a pig pen within the premises and extended Rafael's banana plantation which unfortunately destroyed the fence surrounding the property. Alarmed by the situation, the IFI summoned its elders and decided to write a letter of protest to Venancio Albano, Rafael Albano and Edwin Patricio telling them to desist from interfering with the structures built by the IFI.[1]

In his reply, Venancio requested for a dialogue "reminding the church" that the property belonged to them and was never donated by their predecessors in favor of their church.[2] Upon hearing such reply, IFI was compelled to file an action for quieting of title against them, asserting that the disputed property belonged to the IFI by virtue of a donation from Elena, Eulogia and Benigno Villanueva, and that the donors, in turn, inherited the property from Fr. Platon de Villanueva who acquired the property from the Albanos in exchange for a parcel of land and an undetermined amount of money. Since the time of the donation, the IFI had been in possession of the property and had the lot declared in its name for taxation purposes.[3]

Venancio, Rafael and Edwin denied the allegations in the complaint and claimed that their ancestors had been occupying the property since the 1800's.[4] Their great grandfather Rafael built a brick house within the property and it was in this house where his children and his children's children were born. In 1909, upon the proddings of Fr. Platon de Villanueva, Monico and Nemesio Albano allowed the IFI to establish a small chapel within the property. They averred that although Monico and Vicente indeed donated the property in favor of the church, the donation was never realized as Fr. Platon failed to comply with its terms. According to Venancio, Rafael and Edwin, there was no document to support the claim of IFI that Fr. Platon delivered the riceland that could yield five (5) uyones a pagay in favor of their predecessors as promised. They also declared that a violent earthquake rendered the house unfit for habitation in 1922 and forced them to transfer to a new residence. Despite such misfortune, Florentino Espejo, Antonina's brother, stayed within the premises. After Florentino left, Antonina built a convenience store within the property which she herself tended until the outbreak of the Pacific War. After the war, they occasionally visited the brick house to check on its condition.

In 1955 Rafael decided to settle in Vintar and with the consent of his siblings repaired the dilapidated house and made it his home. Sometime in 1967 the Supreme Bishop of the IFI conferred with Venancio and pleaded that the property be donated t o the congregation. But Venancio turned down the request, saying that he was not the sole owner of the property whose consent alone to the donation should be sought.

Meanwhile, Vicente Albano, brother of Rafael and Venancio, had a 487-square meter portion of the property declared in his name for taxation purposes. Prior thereto however it appeared that none of the Albanos paid taxes on the property except that in 1905 Monico had the entire property declared in his name for purposes of taxation and paid the corresponding taxes thereon.

After trial on the merits, including an ocular inspection of the premises,[5] the trial court rendered judgment declaring the IFI owner of a portion of the disputed property "from the south running up to 55 meters to the north, more or less, at a point where the southern wall of the brick wall stands, including the convent and its immediate yard," and the Albanos "owner of the portion of the property actually occupied by the ruins of the brick house including the vacant space in front of the house."[6] The court ratiocinated that since Monico and Venancio

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Albano had failed to revoke their agreement with Fr. Platon de Villanueva, a presumption arose that the condition embodied in their contract had already been fulfilled. According to the court, such abstention on the part of the Albanos as well as Antonina's devotion to the church despite the alleged invalidity of the donation was a strong indication that the exchange and sale referred to in the agreement had really taken place. Furthermore, inasmuch as IFI had been in the possession of the property where the chapel and the convent stood in the concept of an owner for more than sixty (60) years, it acquired title thereto by acquisitive prescription. Insofar as the Albanos were concerned, the court opined that their proprietary right over the disputed property covered only the area where the brick house stood, measured at roughly 462-square meters, since they had possessed such portion for many years.

Apparently dissatisfied, both the IFI and the Albanos sought recourse in the Court of Appeals through a petition for review on certiorari. But the Court of Appeals in its Decision of 22 February 2000, affirmed the trial court thus -

> In the case at bar, the inaction of defendants-appellants with regard to the donations from 1910 to 1972 or a span of 63 years will surely constitute laches. The failure of Fr. Platon Villanueva to deliver the riceland should have been the proper time to revoke said donation. But defendants-appellants never lift(ed) a finger to enforce their rights.[7]

On 8 May 2000 the Albanos filed a Motion for Leave to Admit Attached Motion for Reconsideration praying that their Motion for Reconsideration be admitted into the records despite its being filed out of time.[8] Atty. Juanito F. Antonio, counsel for petitioners, explained that although a copy of the Decision was sent to his old address and received by a reliever guard on 3 March 2000, he was not notified thereof. However, according to his collaborating counsel, Atty. Edwin Patricio, he heard rumors in Vintar that an unfavorable decision had been rendered against them. This prompted Atty. Patricio to verify the veracity of the information with the Court of Appeals. Upon inquiry with the appellate court, he was informed that a copy of the Decision had already been sent to his collaborating counsel Atty. Antonio; he nevertheless demanded for and was accordingly furnished by the appellate court with a copy of the Decision on 26 April 2000. Despite their plea for reconsideration, the Court of Appeals denied their motion and held that the "failure of the counsel for the defendants-appellants can never be considered or would constitute excusable negligence considering that [a] lawyer[s] should so arrange matters such that judicial communications sent by mail will reach him promptly and should he fail to do so, not only he but his clients as well must suffer the consequences of his negligence."[9]

Undaunted, the Albanos moved for a second reconsideration but were once again rebuffed. Hence, this petition for certiorari under Rule 65 of the Rules of Court where petitioners pray that their Motion for Reconsideration be admitted into the records and the decision of the trial court awarding a portion of the property in favor of private respondent IFI be declared a nullity.

Petitioners contend, as a first assignment of error, that the Court of Appeals acted without authority and jurisdiction in dismissing their Motion for Reconsideration despite its having been filed on time. Petitioners argue that since one of their lawyers was served with a copy of the Decision on 26 April 2000 then their Motion for Reconsideration, which was received by the Court of Appeals on 10 May 2000, was seasonably filed. In support of their position, petitioners assert that their counsel on record are entitled to separate service of the court's decision. It is further urged by petitioners that assuming Atty. Antonio had indeed been inattentive to their case then his negligence should not prejudice their "substantial or property rights" nor should it prevent them from fully exhibiting their cause.[10]

Lastly, petitioners reiterate their stand in the Court of Appeals and stressed that the judgment of the trial court awarding a portion of the disputed property in favor of private respondent IFI should be nullified since private

respondent is disqualified from holding lands of the public domain pursuant to Sec. 3, Art. XII, of the 1987 Constitution.[11] Petitioners invoke the ruling of the Court in Republic v. Iglesia ni Cristo where we held that a religious corporation sole, which has no nationality, is disqualified to acquire or hold alienable lands of the public domain except by lease.[12] In support of their position, petitioners admit that the disputed property "has not been titled under any law."[13]

With regard to their first assignment of error, petitioners are on extremely shaky grounds when they argue that counsel on record are entitled to separate notices of the court's decision. This argument is obviously inconsistent with Sec. 2, Rule 13, of the Rules of Court which explicitly provides that if a party has appeared by counsel, "service upon him shall be made upon his counsel or one of them" (underscoring supplied). Clearly, notice to any one of the several counsel on record is equivalent to notice to all and such notice starts the time running for appeal notwithstanding that the other counsel on record has not received a copy of the decision.

It appearing in the present case that a copy of the Decision of the appellate court was received by Atty. Juanito F. Antonio on 3 March 2000, then petitioners had until 18 March 2000 within which to move for reconsideration. As earlier stated, petitioners filed their motion for reconsideration only on 10 May 2000 or fifty-three (53) days from the expiration of the fifteen (15)-day reglementary period provided under the Rules of Court.[14]

There is also much discussion by petitioners as to the merits of their petition. For one, they argue that as between the State and the IFI, the disputed property is still public land and the latter, as a corporation sole, is disqualified to own the property in view of the prohibition imposed by the Constitution. Be that as it may, there is still an obstacle to the view advanced by petitioners which must be recognized. If it is petitioners' opinion that ownership of the disputed parcel of land is still vested in the State, then it is the State, and the State alone, that is entitled to question the occupation by IFI of the subject property. It is a fundamental principle in land registration that an opposition against a party's claim over a property must be based on the right of dominion, whether it be limited or absolute; and if the oppositor claims no right over the property, whatever it may be, then certainly he has no basis to question such claim.[15]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. No. CV 31630 which in turn affirmed the Decision of the RTC-Br. 13, Laoag City, in its Civil Case No. 6821 "declaring the IFI owner of a portion of the diputed property 'from the south running up to 55 meters to the north, more or less, at a point where the southern wall of the brick wall stands, including the convent and its immediate yard,' and the Albanos 'owner of the portion of the property actually occupied by the ruins of the brick house including the vacant space in front of the house,'" is in effect SUSTAINED insofar as the parties therein are concerned.

SO ORDERED.

Mendoza, Quisumbing, Buena and De Leon, Jr., JJ., concur.

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[1] Original Records, p.6.

[2] Id, p. 7.

[3] Id, pp. 1-4.

[4] Id, pp. 23-36.

[5] An ocular inspection of the property was conducted by the trial court on 3 March 1979, id., pp. 14-19.

[6] Decision penned by Judge Cesar J. Mindaro, RTC-Br. 13, Laoag City, id., pp. 383-395.

[7] Decision penned by Associate Justice Mercedes Gozo-Dadole, concurred in by Associate Justices Buenaventura J. Guerrero and Hilarion L. Aquino; Rollo, pp. 67-85.

[8] Petitioners' Motion for Reconsideration was filed on 10 May 2000 or sixty-eight (68) days from receipt by Atty. Juanito F. Antonio of the Decision of the Court of Appeals on 3 March 2000.

[9] Rollo, pp. 39-40.

[10] Id, pp. 3-40.

[11] Sec. 3, Art. XII. "Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the use to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area x x x (underscoring supplied). ”

[12] G.R. No. 55289, 29 June 1982, 11 SCRA 875.

[13] Rollo, p. 16.

[14] Rule 37. Sec. 1. Grounds of and period for filing motion for new trial or reconsideration. - Within the period for taking an appeal x x x x the aggrieved party may also move for reconsideration upon the grounds that the damages are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.Rule 41. Sec. 3. Period of ordinary appeal. - The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from.

[15] Dela Peña v. Court of Appeals, G.R. No. 81827, 28 March 1994, 231 SCRA 456; Roxas v. Cuevas, 8 Phil. 469 (1907).

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