

GODOFREDO TORIANO, PETITIONER, VS. GENEROSO TRIESTE, SR., DEVELOPMENT BANK OF THE PHILIPPINES AND REUBEN IBARRETA, RESPONDENTS.

G.R. NO. 146937. January 23, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari[1] assailing the Decision[2] dated July 31, 2000 and Resolution dated January 9, 2001 of the Court of Appeals in CA-G.R. CV No. 51341, entitled “GODOFREDO TORIANO, plaintiff-appellant, versus GENEROSO TRIESTE, SR., DEVELOPMENT BANK OF THE PHILIPPINES and REUBEN IBARRETA, defendants-appellees.”

The facts are:

On September 13, 1975, Godofredo Toriano, petitioner, sold to respondent Generoso Trieste, Sr., now deceased, a parcel of land with an area of 669.32 square meters, more or less, located at Laguinbanwa, Numancia, Aklan, covered by Tax Declaration No. 6397.

Three days after, or on September 16, 1975, Trieste purchased from petitioner’s sister, Salvacion Toriano, an adjoining 664-square meter lot. Six (6) days later, or on September 22, 1975, Trieste secured Tax Declaration No. 8409 for both lots.

Thereafter, Trieste mortgaged the lots with respondent Development Bank of the Philippines (DBP) to secure a loan. However, he failed to pay his loan, prompting the bank to foreclose the mortgage. The lots then were sold at public auction to respondent Reuben Ibarreta, the highest bidder.

On February 16, 1988, petitioner, who sold the first lot, filed with the Municipal Circuit Trial Court of Malinao, Aklan a complaint for forcible entry against Trieste alleging that sometime in July 1987, the latter forcibly entered a 242-square meter lot outside the 669.32-square meter lot petitioner sold to him. However, the court, in an Order dated July 12, 1990, dismissed the complaint upon petitioner’s manifestation that he would file a suit for recovery of possession and ownership.

Accordingly, on September 19, 1990, petitioner filed with the Regional Trial Court (RTC), Branch 6, Kalibo, Aklan a Complaint for Recovery of Possession and Ownership and for Declaration of Nullity of Contracts against respondents Trieste, DBP and Ibarreta.

On July 25, 1995, the RTC rendered a Decision dismissing the complaint, holding that the disputed 242-square meter lot was included in the 669.32-square meter lot sold by petitioner to Trieste.

On appeal, the Court of Appeals promulgated its Decision affirming the RTC judgment. Petitioner filed a Motion for Reconsideration but it was denied in a Resolution dated January 9, 2001.

Hence, this petition.

Petitioner contends that the Court of Appeals erred in affirming the finding of the trial court that the 242-square meter portion under controversy is included in the 669.32-square meter lot he sold to Trieste.

For their part, respondents maintain that the petition should be denied for lack of merit.

The petition must fail.

The issue of whether the subject area consisting of 242 square meters belongs to petitioner, who has therefore the right to recover possession or ownership from Trieste, is a question of fact which cannot be raised in a petition for review on certiorari.

Time and again, we have held that this Court is not a trier of facts and it is not its function to examine and evaluate the probative value of the evidence presented before the concerned tribunal upon which its impugned decision or resolution is based.[3] In an appeal to this Court by a petition for review on certiorari under Rule 45 of the 1997 Rules of Procedure, as amended, only questions of law may be raised.[4]

While there are established exceptions[5] to the rule on conclusiveness of the findings of fact by the lower courts, however, petitioner's case does not fall under any of them.

WHEREFORE, we DENY the petition and AFFIRM the challenged Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 51341. Costs against petitioner.
SO ORDERED.

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

[1] Filed under Rule 45, 1997 Rules of Civil Procedure, as amended.

[2] Penned by Associate Justice Conchita Carpio Morales (now a member of this Court) and concurred in by Associate Justice Teodoro P. Regino and Associate Justice Mercedes Gozo-Dadole (both retired).

[3] *Junson v. Martinez*, G.R. No. 141324, July 8, 2003, 405 SCRA 390, 393.

[4] *Engreso v. De la Cruz*, G.R. No. 148727, April 9, 2003, 401 SCRA 217.

[5] The exceptions are: 1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. (*Madrigal v. Court of Appeals*, G.R. No. 142944, April 15, 2005, 456 SCRA 247, 256).

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