

APOLONIA LL. OCAMPO NOW SUBSTITUTED BY MARIANO O. QUIEN, AMELITA Q. TAN, MILOVAN O. QUIEN, LUISA OCAMPO-LLORIN, MELITA F. OCAMPO, FELIX OCAMPO JR., RAMON OCAMPO, MIGUEL OCAMPO, ...

G.R. No. 150707. April 14, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Basic is the rule that the party making an allegation in a civil case has the burden of proving it by a preponderance of evidence. In an action involving property, petitioners should rely on the strength of their own title and not on the alleged weakness of respondents' claim.

The Case

Before this Court is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the October 31, 2001 Decision[2] of the Court of Appeals (CA) in CA-GR CV No. 56941. The decretal portion of the Decision reads as follows:

“WHEREFORE, with the sole modification that the awards for damages and attorney’s fees are hereby deleted, the judgment appealed from is, in all other respects, AFFIRMED. Without costs.”[3]

The CA affirmed the Regional Trial Court (RTC) Decision,[4] rendered on October 30, 1996, which decreed thus:

“WHEREFORE, premises considered, the Court finds, holds and declares that defendant Belen Ocampo-Barrito, married to Vicente Barrito, are the true and lawful exclusive owners of the following properties, namely:

(a) A parcel of residential/commercial land situated in the poblacion of Nabua, Camarines Sur, bounded on the NE by Carmen Ocampo and Alberto Espiritu, on the SE by the Burgos Street, on the SW by a street, and on the NW by Julian Ocampo and Carmen Ocampo, containing an area of 1,119 square meters, more or less, presently covered by TCT No. 13654 in the name of Belen Ocampo-Barrito, married to Vicente Barrito and previously covered by TCT No. RT-4389(983) in the name of Fidela Ocampo, declared under TD No. 18856 and assessed at P17,240.00.

(b) A parcel of residential land situated at San Luis, Nabua, Camarines Sur, bounded on the North and East by a barrio road, on the South by a creek, and on the West by Lot 237, with an area of about 300 square meters, declared under TD No. 19639 with an assessed value of P6,240.00.

(c) A parcel of land situated at Sto. Domingo, Nabua, Camarines Sur, bounded on the North by Lot 10323, on the East by Lot 9543, on the South by Lot 10325, and on the West by Lot 10322, with an area of about 4884 square meters, declared under TD No. 35122 and assessed at P6780.00

as described and referred to in paragraph 9, sub-paragraphs (a), (b) and (c) of the original complaint and it is hereby ordered that:

- The complaint and supplemental complaint are dismissed for failure of the plaintiffs to prove their cause/causes of action by preponderance of evidence and on the added ground of prescription;
- The plaintiffs are ordered to pay as their joint and several obligation, to defendants Fidela Ll. Ocampo, Belen Ocampo-Barrito and Vicente Barrito, the total sum of P15,000.00 for attorney's fees and other expenses of litigation and P50,000.00 for moral damages;
- The plaintiffs jointly and severally pay the cost of this suit.
- Upon the finality of this decision, the notice of lis pendens annotated at plaintiffs' behest in the Certificates of Title covering the properties in question, of defendants be cancelled; and the plaintiffs, their agents and representatives as well as successors-in-interest are ordered to respect the right of ownership of said defendants thereto, and to vacate and restore the lawful possession of all portions of said properties to herein defendants, their agents, representatives and successors-in-interest."[5]

The Facts

The CA adopted the RTC's summation of facts as follows:

"Notwithstanding its somewhat deficient grammar and syntax, the following summation of the relevant and material antecedents of the case by the court a quo, is substantially correct --

'This is a civil suit for partition and damages filed by plaintiffs against the defendants.

'The complaint alleges that during the lifetime of the spouses Jose Ocampo and Juana Llander-Ocampo, they begot ten (10) children, namely: Fidela, Felix, Andres, Nemesio, Jose, Apolonia, Felicidad, Luisa, Rosario, and Luis. Of the aforementioned children, the following are already dead, namely: Felix, who is survived by his widow, Melita F. Ocampo and children Felix, Jr., Ramon and Miguel; Andres, who is survived by Juana Ocampo and children Jose, Andres, Imelda, Violeta and Mercedita; Jose, who is survived by his children Antonia, Elias and Juan (Johnny); Rosario, who is survived by Ernesto O. Fortuno; Luis, who is survived by his children Rose, Ricardo, Jonas, Maria Dolores, Rebecca, Fidela and Luis, Jr.; and Luisa, who is survived by Carlos Llorin and children Mecita, Manuel, Carlos, Jr., Carmelita and Marilou L. Arellano.

'The complaint further alleges that during the lifetime of the spouses Jose Ocampo and Luisa Llander-Ocampo, they acquired several parcels of land and, upon their death, left the following properties, namely:

(a) A parcel of residential/ commercial land situated in the poblacion of Nabua, Camarines Sur, bounded on the NE by Carmen Ocampo and Alberto Espiritu, on the SE by the Burgos Street, on the SW by a Street, and on the NW by Julian Ocampo and Carmen Ocampo, containing an area of 1,119 square meters, more or less, presently covered by TCT No. RT-4389(983) in the name of Fidela Ocampo, declared under TD No. 18856 and assessed at P17,240.00;

(b) A parcel of residential land situated at San Luis, Nabua, Camarines Sur, bounded on the North and East by a barrio road, on the South by a creek, and on the West by Lot 237, with an area of about 300 square meters, declared under TD No. 19639 with an assessed value of P6,240.00; and

(c) A parcel of land situated at Sto. Domingo, Nabua, Camarines Sur, bounded on the North by Lot 10323, on the East by Lot 9543, on the South by Lot 10325, and on the West by Lot 10322, with an area of about 4,884 square meters, declared under TD No. 35122 and assessed at P6,780.00.

'that all the above named parcels of land are actually owned in common by the children of the late spouses Jose Ocampo and Juana Llander Ocampo although the land denominated as parcel (a) of the complaint is ostensibly registered in the name of Fidela Ocampo alone but acknowledged by her as a property owned in common by all of them, brothers and sisters; that plaintiffs desire to partition said properties but defendants Fidela Ocampo and

Felicidad unlawfully and unreasonably refuse to do so and moved by a common purpose, both of them mortgaged to the PNB the land denominated as parcel (a) of the complaint to secure the payment of a P110,000.00 loan, the proceeds of which were x x x exclusively to the benefit of said defendants only; that the same defendants Fidela Ocampo and Felicidad Ocampo have been receiving the fruits of the properties to the exclusion of their co-heirs amounting to not less than P2,000.00 a year; and, that because of their relationship, they undertook earnest efforts to amicably settle this controversy but because of defendants Fidela Ocampo and Felicidad Ocampo[‘s] utterly unreasonable and unjustified actuations, the same failed.

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‘In their complaint, plaintiffs pray that judgment be rendered ordering the partition of the properties described in paragraph 9 of the complaint; ordering defendants Fidela Ocampo and Felicidad Ocampo, to release or otherwise cancel any and all encumbrances on TCT No. RT-4389(983) which they had caused to be annotated thereon, particularly, the mortgage in favor of the PNB; requiring Fidela Ocampo and Felicidad Ocampo to refrain from further encumbering said properties or otherwise subjecting the same to any lien and for that purpose, a writ of preliminary injunction to be issued against them to enjoin the commission of such acts; ordering defendants Fidela Ocampo and Felicidad Ocampo to submit an accounting of the fruits and other produce they had received from said properties; further ordering Fidela Ocampo and Felicidad Ocampo to indemnify plaintiffs the sum of not less than P15,000.00 by way of attorney’s fees and related expenses of litigation, plus the costs of the suit; and, further granting plaintiffs such other remedies as may be just and equitable in the premises.

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‘On 17 December 1987, counsel for plaintiffs filed a Motion to Admit Supplemental Complaint dated 2 December 1987 which was granted by the Court as there was no opposition to it.

‘The Supplemental Complaint alleges that defendants Helen Ocampo-Barrito and Vicente Barrito are spouses; that on 30 September 1987, TCT No. RT-4389(983) in the name of defendant Fidela Ocampo and covering the lot described as parcel (a) in paragraph 9 of the original complaint was cancelled and, in lieu thereof, TCT No. 1364 was issued to defendant Belen Ocampo-Barrito, married to defendant Vicente Barrito, on the strength of an allege[d] Deed of Donation Inter Vivos ostensibly executed by defendant Fidela Ll. Ocampo in their favor on 13 January 1984; that at the time the Deed of Donation Inter Vivos was presented for registration and when TCT No. 1364, Registry of Camarines Sur, was issued to defendant Belen Ocampo-Barrito, both the donor and donees were notoriously aware that said parcel of land was among the lots subject of this Civil Case No. IR-1867 of which the donor Fidela Ll. Ocampo and the mother of the donees, Felicidad Ll. Ocampo, are defendants, that said properties were owned by the Ocampo brothers and sisters, and that the donor Fidela Ll. Ocampo was not the exclusive owner thereof; that the transfer of defendants Fidela Ll. Ocampo and Belen Ocampo-Barrito of the ownership over said property now subject of this partition is tainted with fraud, actual and deliberate, to deprive plaintiffs of their legitimate share therein, knowing as they do that the same are a co-ownership of the original parties plaintiffs and defendants herein; that defendants Fidela Ll. Ocampo and the spouses Belen Ocampo-Barrito and Vicente Barrito have not acted in good faith, deliberately causing damage and injury to the plaintiffs by their avaricious desire to obtain sole ownership of said properties through dubious and illegal means that the defendant spouses Belen Ocampo-Barrito and Vicente Barrito, through dubious means and undue influence over Fidela Ll. Ocampo, a very old spinster whom they have lately taken into their custody, succeeded in having the latter execute this supposed deed of donation inter vivos; that defendants have not acted with justice, honesty and good faith, causing injury to plaintiffs’ rights in a manner inconsistent with morals and good customs, hence, are liable for moral damages of not less than P50,000.00; and that to set an example for the public good and to deter others similarly minded from doing so, defendants should be assessed exemplary damages of not less than P50,000.00.

‘Plaintiffs pray that judgment be rendered (a) declaring the Deed of Donation Inter Vivos allegedly executed by Fidela Ll. Ocampo in favor of Belen Ocampo-Barrito and Vicente Barrito be declare[d] null and void, (b) ordering defendants Belen Ocampo-Barrito and Vicente Barrito to reconvey so much of the property subject thereof as pertain to the plaintiffs, (c) directing defendants, jointly and severally, to indemnify plaintiffs such amounts as this Honorable Court may consider fair and reasonable by way of actual, moral and exemplary damages, inclusive of attorney’s fees and related expenses of litigation, and (d) granting plaintiffs such other remedies as may be just and equitable in the premises.

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‘As Special Defenses, defendant Belen Ocampo-Barrito allege that the original defendant Fidela Ll. Ocampo, her predecessor-in-interest, since 1949 has been the absolute owner in fee simple of the property by virtue of the issuance of the certificate of title in her name; that her predecessor-in-interest held the same certificate of title to the same parcel of land (TCT No. RT-4389(983) free of all encumbrances and adverse claims and was in notorious, public, and actual possession of the property in concept of absolute owner from 1949 until 13 January 1984, when said predecessor-in-interest validly conveyed the property by donation inter vivos which she accepted in the same public instrument; that TCT No. 1364 was issued to defendant Belen Ocampo-Barrito on the strength of the donation inter vivos executed in her favor by her predecessor-in-interest and has since 30 September 1987, been the absolute owner thereof; that since 1949 none of the plaintiffs ever questioned the absolute ownership and title of defendant Belen Ocampo-Barrito’s predecessor-in-interest over the property making the decree of registration incontrovertible; that it is fatal for plaintiffs’ cause of action to allege that defendants exerted ‘undue influence over Fidela Ll. Ocampo’ for the latter to ‘execute the deed of donation’ while clearly admitting in both the original and supplemental complaints that defendants are residents of Mindoro Occidental a far away place from Nabua, Camarines Sur, the place where the same predecessor-in-interest admittedly resides; and, that Belen Ocampo-Barrito’s title cannot be collaterally attacked in these supposed partition proceedings.

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‘Defendants pray that the case be dismissed for utter lack of merit and plaintiffs be ordered to pay defendants the sum of P200,000.00 for moral damages, P50,000.00 for exemplary damages, P100,000.00 as compensatory damages, to pay attorney’s fees in the amount of P15,000.00, and for other just and equitable remedies.

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‘As the Special and/or Affirmative Defenses, defendant Fidela Ll. Ocampo alleges that she is the true and absolute owner of the real properties described in paragraph 9 of the original complaint having acquired the same by lucrative title and has, since becoming owner thereof, been in actual possession thereof excepting the portion of the lot described in paragraph 9 (a) of the complaint and covered by ‘Torrens’ title which was and is still being unlawfully occupied by plaintiffs Quiens; that the properties have been declared for assessment in defendant’s name as exclusive owner thereof and since her acquisition of said properties, has paid the taxes thereon; that defendant had exercised continuously all the legal incidents of ownership on said lands to the exclusion of and adversely to the public, plaintiffs herein included; that the [D]eed of Donation Inter Vivos and the subsequent transfer of the property mentioned in paragraph 9 of the complaint to other defendants Belen Ocamp[o]-Barrito is valid conveyance which binds the said property; and, that assuming that plaintiffs have a cause of action, the same is barred by laches.

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‘Defendant Fidela Ll. Ocampo prays that judgment be rendered dismissing the complaint and ordering plaintiffs

to indemnify such sum as will be proved as well as [s]uch amount as this Court may assess by way of moral and exemplary damages and costs, including necessary expenses for litigation, and for just and equitable reliefs.”[6]

Ruling of the Court of Appeals

According to the appellate court, other than the Acknowledgment of Co-ownership[7] executed by Respondent Fidela Ocampo, no documentary evidence was offered to establish petitioners’ claim of co-ownership. The CA held that this piece of documentary evidence could not prevail over the array of testimonial and documentary evidence that had been adduced by respondents to prove their defenses. Communal ownership of the property in question was supposedly not proven, either, by the ancient photograph showing Spouses Chino Jose and Juana Llander Ocampo with their ten children in front of the disputed property; or by another picture showing the name “Oniang Ocampo -- 1-15-61” engraved on the said house or building.

The court a quo rejected the argument of petitioners that the title to the subject property had been placed in the name of Fidela, because their parents followed the Chinese custom of placing properties in the name of the eldest son or daughter who was single. Petitioners explained that upon the death of the eldest sibling, the properties would revert to the younger brothers and sisters. According to the CA, however, not a shred of evidence was adduced to prove that such a Chinese custom existed or was observed in that place.

The CA also dismissed petitioners’ contention that common ownership was indicated by the fact that some of the children of Spouses Ocampo stayed and lived on the subject property. It ruled that fraternal affection could have been the motive that impelled respondents to allow their relatives to use it.

In contrast to the arguments of petitioners, the CA said that respondents were able to give clear proof of their ownership of the property: the Transfer Certificate of Title and the corresponding Tax Declaration in the name of Fidela, and later of Belen Ocampo-Barrito.

Nevertheless, the CA eliminated the awards for damages and attorney’s fees, because the trial court had failed to cite the factual, the legal and the equitable bases therefor.

Hence, this Petition.[8]

The Issues

Petitioners raise the following issues for our consideration:

“1. Where the evidence presented, oral and documentary, on the question of co-ownership, is overwhelming as it is unopposed, un rebutted and unimpeached, has co-ownership been proved?

“2. Where co-ownership is confirmed by long, public possession by co-owners, did the courts commit grave abuse of discretion in holding that there is no co-ownership?

“3. Where the evidence of respondents is weak, puerile and inconsistent, did the courts commit a grave misapprehension of facts when they gave credence to it?

“4. Where a deed of donation intervivos entered in bad faith deprives the heirs of their hereditary shares, is said deed valid?

“5. Where a declaration against interest has not been opposed, assailed, rebutted or impeached, did the courts commit grave abuse of discretion in holding there is no such declaration?”[9]

At bottom, the question to be resolved in this case is who owns the disputed property?

The Court's Ruling

The Petition has no merit.

Main Issue:

Ownership of the Subject Property

At the outset, we clarify that although there were three (3) properties originally involved in the litigation brought before the RTC, petitioners' appeal dealt only with the first one, referred to in the Statement of Facts above -- a parcel of residential/commercial land situated in the poblacion of Nabua, Camarines Sur. In their CA appeal, petitioners declared that "the focus of this case is on the first [property] which is located at downtown Poblacion of Nabua and therefore a valuable piece of property, 1,119 square meters in all."^[10] Because petitioners had not questioned the RTC Decision with regard to the other properties, then the adjudication of these matters became final. Thus, only one property is left for resolution in the present proceedings.^[11]

Since the original Complaint was an action for partition, this Court cannot order a division of the property, unless it first makes a determination as to the existence of a co-ownership.^[12] The settlement of the issue of ownership is the first stage in an action for partition.^[13] This action will not lie if the claimant has no rightful interest in the subject property. Parties filing the action are in fact required by the Rules of Court^[14] to set forth in their complaint the nature and the extent of their title to the property. It would be premature to effect a partition thereof until and unless the question of ownership is first definitely resolved.^[15]

Basic is the rule that the party making an allegation in a civil case has the burden of proving it by a preponderance of evidence.^[16] Petitioners' chief evidence of co-ownership of the property in question is simply the Acknowledgement of Co-ownership executed by Fidela. As mentioned earlier, both the trial and the appellate courts were correct in finding that this piece of documentary evidence could not prevail over the array of testimonial and documentary evidence that were adduced by respondents, as will be expounded below.

Petitioners failed to trace the successive transfers of ownership of the questioned property that eventually led to them. Allegedly, it was originally owned by their parents -- Spouses Ocampo -- whose deaths passed it on to the children. Petitioners, however, presented absolutely no proof of ownership of their predecessors-in-interest. In insisting that it was so transferred and thus co-owned, the former rely on the Acknowledgement of Co-ownership executed by Fidela, their eldest sibling.

On the other hand, Belen clearly traced the basis of her alleged sole ownership of the property and presented preponderant proof of her claim.

First, she presented a Deed of Absolute Sale of Residential Land,^[17] referring to the subject property, executed between Adolfo Ocampo as seller and Felix Ocampo as buyer. The document dated July 6, 1948, was signed in the presence of two witnesses and acknowledged before Juan B. Ballecer, a notary public.

The theory of petitioners is completely demolished by this document, which they never contested. According to them, the land in question was the conjugal property of their parents; and that upon the latter's deaths, the former inherited it in common. If indeed the land was the conjugal property of Spouses Ocampo, then petitioners should have presented evidence to prove such ownership by their alleged predecessors-in-interest. Since the former failed to do so, how then can they prove the transfer to them of ownership that has not been established in the first place? It is axiomatic that no one can transfer to another a right greater than that which one has;^[18] thus, the legal truism that the spring cannot rise higher than its source.^[19]

Likewise, in this Deed of Absolute Sale, Adolfo Ocampo declared his “exclusive ownership” of the property, “having been acquired by purchase[;] and [having] been in [his] continuous, public, peaceful, adverse and material possession for more than 50 years together with [his] predecessors in rights and interest, in [the] concept of owner without any claim of other persons.”[20]

Second, Respondent Belen proved that on February 10, 1953, this property had been sold to Fidela by Felix Ocampo for a valuable consideration; and that Fidela had entered the property, actually occupied it, and exercised all powers of dominion over it to the exclusion of petitioners.

As proofs of ownership of the property by Fidela, Belen presented Transfer Certificate of Title No. RT-4389 (983),[21] which named the former as owner in fee simple; and a Declaration of Real Property,[22] evidencing payment of real property taxes, also by Fidela as owner.

To prove further that Fidela had exercised dominion over the property, Belen also presented a Real Estate Mortgage[23] executed by the former as absolute owner. Fidela had executed it in favor of her sister Apolonia Ocampo, one of the original petitioners in this case, who is now represented by her heirs. Belen correctly argues that in agreeing to be a mortgagee, Apolonia admitted and recognized Fidela as the true owner of the land in question.

The Civil Code provides that an essential requisite of a contract of mortgage is that the mortgagor be the absolute owner of the thing mortgaged.[24] Co-ownership cannot be presumed even if only a portion of the property was mortgaged to Apolonia, because a co-owner may dispose only of one’s interest in the ideal or abstract part of the undivided thing co-owned with others.[25] The effect of a mortgage by a co-owner shall be limited to the portion that may be allotted to that person upon the termination of the co-ownership.[26] In this case, Fidela mortgaged a definite portion of the property and thus negated any acknowledgment of co-ownership.

Third, Belen then presented a Deed of Donation Inter Vivos[27] executed on January 13, 1984, between herself as donee and Fidela as donor. This act shows the immediate source of the former’s claim of sole ownership of the property.

A donation as a mode of acquiring ownership results in an effective transfer of title to the property from the donor to the donee.[28] Petitioners stubbornly rely on the Acknowledgement of Co-ownership allegedly executed by Fidela in favor of her siblings. What they overlook is the fact that at the time of the execution of the Acknowledgement -- assuming that its authenticity and due execution were proven -- the property had already been donated to Belen. The Deed of Donation, which is the prior document, is clearly inconsistent with the document relied upon by petitioners. We agree with the RTC’s ratiocination:

“On the claim of plaintiffs that defendant Fidela Ll. Ocampo herself made a written acknowledgement for her co-ownership over all the properties disputed with plaintiffs in this case, the same cannot be considered as a declaration against Fidela’s interest since the alleged acknowledgement was written and executed on 24 December 1985 when she was no longer the owner of the property as the year previous, on 13 January 1984, she had already donated all her properties to defendant Belen Ocampo-Barrito, so that, in effect, she had no more properties with which she can have an interest to declare against.”[29]

Petitioners argue that the Acknowledgement of Co-ownership may be considered as a declaration against interest. A statement may be admissible as such a declaration if it complies with the following requisites: 1) the declarant is dead or unable to testify; 2) it relates to a fact against the interest of the declarant; 3) at the time of the declaration, the declarant was aware that it was contrary to his or her interest; and 4) the declarant had no motive to falsify and believed the declaration to be true.[30]

As correctly found by the trial court, however, the Acknowledgement of Co-ownership could not be a fact against the interest of the declarant, since her right over the property had already been extinguished by the prior act of donation. Thus, at the time of the declaration, Fidela could not have acknowledged co-ownership, as she had no more property against which she had an interest to declare.

Finally, Belen presented Transfer Certificate of Title No. 13654[31] as proof of her ownership of the property. To be sure, the best proof of ownership of the land is the Certificate of Title (TCT). Hence, more than a bare allegation is required to defeat the face value of respondent's TCT, which enjoys a legal presumption of regularity of issuance.[32] It is quite surprising that despite the process of transfers and titling of the subject property -- commencing in 1948 and eventually leading to the sole ownership of Belen in 1984[33] -- it was only after 1984 that petitioners started asserting their claim of co-ownership thereof.

We are not unmindful of our ruling that the mere issuance of a certificate of title does not foreclose the possibility that the real property may be under co-ownership with persons not named therein.[34] But given the circumstances of this case, the claim of co-ownership by petitioners has no leg to stand on. Again, we stress, Belen clearly traced the source of her sole ownership of the property in question and thereby foreclosed the unproven and unsubstantiated allegation of co-ownership thereof.

In addition to the TCT presented, Belen offered as evidence the Tax Declaration[35] indicating that she, as owner, had been paying real estate taxes on the property, all to the exclusion of petitioners.

On the other hand, petitioners could not show any title, tax receipt or document to prove their ownership. Having filed an action involving property, they should have relied on the strength of their own title and not on the alleged weakness of respondents' claim.[36]

Petitioners assert that their claim of co-ownership of the property was sufficiently proved by their witnesses -- Luisa Ocampo-Llorin and Melita Ocampo. We disagree. Their testimonies cannot prevail over the array of documents presented by Belen. A claim of ownership cannot be based simply on the testimonies of witnesses; much less on those of interested parties, self-serving as they are.

As to the photographs presented by petitioners to bolster their claim of co-ownership, we affirm the CA's disposition showing the flimsiness of their claim as follows:

"The other piece of documentary evidence presented by appellants really proved nothing. The ancient photograph showing the spouses Chino Jose and Juana Llander Ocampo together with their ten children, simply proved that there was such a picture taking of the spouses with their children. But the photograph does not prove communal ownership by appellants over the disputed parcels of land; neither does it prove that the said properties were indeed owned by the spouses Chino Jose and Juana Ocampo, and then later on transferred to and commonly owned by their children. By the same token, the picture exhibited by appellant showing the name 'Oniang Ocampo -- 1-15-61' (or Apolonia Ocampo, one of the children of the spouses Chino Jose and Juana) engraved in the house or building, does not prove communal ownership of the properties in question. At best, it is susceptible of various meanings, like: that of Oniang Ocampo was born on 1-15-61, or that she got married on that date, or that she was celebrating a special event on the date mentioned, or that she even died on the date mentioned. And even assuming ex gratia argumenti, that the said engraving proved ownership over the disputed building, some such fact can only work to the prejudice of herein appellants. Why? Because it would mean that only Oniang (or Apolonia) was the owner of the building and that the building is not, therefore, a communal property of the children of the late spouses Chino Jose and Juana. Adverting to this piece of evidence, the Trial Court postulated --

'The engravings on the house 'ONIANG OCAMPO BLDG. -- 1-15-61 cannot serve as evidence that the property is of common ownership. At most, this can only establish the fact that said building was constructed for a certain 'Oniang' on 15 January 1961. If, indeed, the property is of common ownership, there could not

have been any difficulty to engrave thereon 'HEIRS OF JOSE OCAMPO and JUANA LLANDER-OCAMPO -- 1-15-61' instead of 'ONIANG OCAMPO BLDG. -- 1-15-61.'"[37]

Neither can we accept petitioners' contention that co-ownership is shown by the fact that some of the children of Spouses Ocampo stayed, lived, and even put up businesses on the property. The appellate court correctly found that since the litigants in this case were blood relatives, fraternal affection could have been a good motive that impelled either Belen or Fidela to allow petitioners to use the property. Without any proof, however, co-ownership among the parties cannot be presumed.

Nor are we persuaded by the contention that Spouses Ocampo placed the subject property in the name of only one person in accordance with a Chinese custom. As mentioned earlier, that custom consisted of placing properties of parents in the name of the eldest unmarried son or daughter, with the implicit understanding that ownership thereof would later revert to the siblings.

In contrast to the failure of petitioners to prove that such custom existed and was practiced in that place,[38] Belen presented evidence that clearly negated any claim of ownership by the former's predecessors-in-interest. Having shown that the property in question was originally owned by one Adolfo Ocampo -- not by Spouses Ocampo, from whom petitioners derive their right -- the claim of custom becomes immaterial.

The fact that Fidela was not presented in court will not necessarily favor petitioners and prove that the property in question is indeed co-owned. If they felt that her testimony would prove their cause, then they could have easily called her as an adverse or a hostile witness.[39] But since respondents were confident in the documents they presented in court, they did not see any need to call her as a witness.

Petitioners also question the motives of Fidela for donating her properties, when she is still alive and needs money in her old age. They clearly overlook the nature of a donation.

Donation is an act of liberality whereby a person gratuitously disposes of a thing or a right in favor of another who accepts it.[40] Once perfected, a donation is final; its revocation or rescission cannot be effected, absent any legal ground therefor.[41] A donation may in fact comprehend the entire property of the donor.[42] At any rate, the law provides that donors should reserve, in full ownership or in usufruct, sufficient means for their own support and that of all their relatives who, at the time of the acceptance of the donation, are by law entitled to be supported by them.[43]

In questioning the motives of Fidela for donating the subject property, petitioners are contradicting even themselves. On the one hand, they assert that she would not have disposed of her property, since she would need it in her old age; on the other, they argue that it was not hers alone anyway. It should be clear that the law protects donors by providing that, without any reservation of sufficient means for themselves, the donation shall be reduced upon the petition of any person affected.[44]

To be sure, petitioners' arguments all pertain to circumstances extraneous to the Deed of Donation itself. The law is clear that when its terms have been reduced to writing, an agreement must be presumed to contain all the terms agreed upon; and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.[45]

Petitioners did not question the consent of Fidela to the donation. Never was there any intimation that she had either been coerced or defrauded into entering into it. As all the essential elements of a donation -- consent, subject matter and cause[46] -- have been satisfied, we see no reason to entertain any doubt about the Deed pertaining thereto.

The question of why the land was registered several years after the donation is purely speculative. What is important is that there was a duly proven Deed of Donation, which formed the basis of Belen's claim and led to the registration of the property in her name.

Petitioners also question Fidela's filing of an unlawful detainer suit after the date of the Deed of Donation. Again, we remind petitioners that because this action involves property, they should rely on the strength of their own title, not on the alleged weakness of the claim of respondents. At any rate, the burden of proof of the claim of co-ownership rests on the former.

Moreover, the final resolution of this case entails the review of factual findings of the courts below. It is a settled doctrine that in a civil case, final and conclusive are the factual findings of the trial court, if supported by clear and convincing evidence on record. Usually, the Supreme Court does not review those findings -- especially when affirmed by the Court of Appeals, as in this case.[47] From the records of the present case, no cogent evidence appears that would impel us to apply the above doctrine differently. The courts below have not overlooked essential facts that, if considered, may produce a different outcome. The trial court correctly explained thus:

"This Court from the outset had the opportunity to see and hear the tell-tale [signs] of truthfulness or perjury -- like the flush of face, or the tone of voice, or the dart of eyes, or the fearful pause [--] and finds that credibility is with the defendants [herein respondents]. Moreover, the preponderance of evidence is with defendants whose testimonial evidences are buttressed by their documentary evidences." [48]

Finally, we agree with the CA in eliminating the awards for damages and attorney's fees for respondents' failure to show any factual, legal or equitable bases therefor.[49]

WHEREFORE, the Petition is hereby DENIED, and the assailed Decision AFFIRMED. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 8-45.

[2] Id., pp. 46-62. Penned by Justice Renato C. Dacudao and concurred in by Justices Ruben T. Reyes (Division chair) and Mariano C. del Castillo (member).

[3] CA Decision, p. 16; rollo, p. 61.

[4] Rollo, pp. 63-81. Penned by Judge Jose S. Peñas Jr.

[5] RTC Decision, pp. 17-19; rollo, pp. 79-81.

[6] CA Decision, pp. 3-10; id., pp. 48-55. Citations omitted.

[7] Exhibit "A"; records, p. 103.

[8] The case was deemed submitted for decision on October 17, 2002, upon this Court's receipt of respondents' Memorandum signed by Atty. Esteban R. Abonal. Petitioners' Memorandum, signed by Atty. German A. Gineta, was received by the Court on October 7, 2002.

[9] Petitioners' Memorandum, p. 10; rollo, p. 187. Original in upper case.

[10] Annex "C" of the Petition; Brief for Plaintiffs-Appellants, p. 3; rollo, p. 84.

- [11] See Petition, p. 4; rollo, p. 11. See also Memorandum for Petitioners, p. 3; rollo, p. 180.
- [12] *Heirs of Velasquez v. CA*, 382 Phil. 438, February 15, 2000; *Catapusan v. CA*, 332 Phil. 586, November 21, 1996.
- [13] *Ibid.*
- [14] §1 of Rule 69 provides: “A person having the right to compel the partition of real estate may do so as provided in this Rule, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all other persons interested in the property.”
- [15] *Viloria v. CA*, 368 Phil. 851, June 30, 1999; *Catapusan v. CA*, *supra*.
- [16] *Catapusan v. CA*, *supra*; See also §1 of Rule 133 of the Revised Rules on Evidence.
- [17] Exhibit “10”; records, p. 191.
- [18] *Spouses Mathay v. CA*, 356 Phil. 870, September 17, 1998.
- [19] *Victorio v. CA*, 355 SCRA 520, March 28, 2001.
- [20] Exhibit “10”; records, p. 191.
- [21] Exhibit “4”; records, p. 145.
- [22] Records, pp. 68-69.
- [23] Exhibit “11”; records, p. 193.
- [24] Article 2085(2) of the Civil Code.
- [25] Tolentino, *Civil Code of the Philippines*, Vol. II (1992 ed.), pp. 200-201.
- [26] Article 493 of the Civil Code.
- [27] Exhibit “3”; records, pp. 143-144.
- [28] Article 712 of the Civil Code, provides: “Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition.” (*Italics supplied.*)
- [29] RTC Decision, p. 14; rollo, p. 76. Citations omitted.
- [30] Regalado, *Remedial Law Compendium*, Vol. II (9th revised ed., 2001), pp. 644-645.
- [31] Exhibit “2”; records, p. 142.
- [32] *Heirs of Velasquez v. CA*, *supra*; *Halili v. CIR*, 326 Phil. 982, May 30, 1996.
- [33] The property was donated to Belen Ocampo-Barrito on January 13, 1984.
- [34] *Lee Tek Sheng v. CA*, 354 Phil. 556, July 15, 1998.
- [35] Records, p. 71.
- [36] *Catapusan v. CA*, *supra*.
- [37] CA Decision, pp. 13-14; rollo, pp. 58-59.

[38] Article 12 of the Civil Code provides: “A custom must be proved as a fact, according to the rules of evidence.”

[39] §12 of Rule 132 of the Revised Rules on Evidence.

[40] Article 725 of the Civil Code.

[41] Vitug, Compendium of Civil Law and Jurisprudence (1993 revised ed.), p. 353.

[42] Article 750 of the Civil Code.

[43] Ibid.

[44] Ibid.

[45] §9 of Rule 130 of the Revised Rules on Evidence.

[46] Tolentino, Civil Code of the Philippines, *supra*, p. 531.

[47] PNB v. CA, 381 Phil. 720, February 4, 2000; Atillo III v. CA, 334 Phil. 546, January 23, 1997; Catapusan v. CA, *supra*.

[48] RTC Decision, p. 17; rollo, p. 79. Citation omitted.

[49] National Power Corp. v. Philipp Brothers Oceanic, Inc., 421 Phil. 532, November 20, 2001; Spouses Yu Eng Cho v. Pan American World Airways, Inc., 385 Phil. 453, March 27, 2000.

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