

HEIRS OF PEDRO DE GUZMAN, PETITIONERS, VS. ANGELINA PERONA AND HEIRS OF ROSAURO DE GUZMAN; BATAAN DEVELOPMENT BANK; AND REPUBLIC PLANTERS BANK, RESPONDENTS.

G.R. No. 152266. July 02, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA), dated May 30, 2001 and January 25, 2002, respectively, in CA-G.R. CV No. 46144.

The antecedent facts are as follows:

On April 15, 1985, Pedro de Guzman filed a Complaint with application for temporary restraining order and preliminary injunction against respondents before the Regional Trial Court (RTC) of Bataan docketed as Civil Case No. 5247. He sought reconveyance of a parcel of land measuring about 300 square meters from the heirs of Rosauro de Guzman and his surviving spouse, Angelina Perona.

Pedro alleged that through unlawful machination, fraud, deceit, and evident bad faith, respondent spouses Rosauro and Angelina caused the cancellation of Original Certificate of Title (OCT) No. 10075 and subdivided the said property into three (3) parcels of land covered by separate Transfer Certificate of Titles in their name.

Records show that OCT No. 10075[3] was issued by the Office of the Register of Deeds for the Province of Bataan on July 25, 1933, containing an area of 3,242 square meters, more or less, half of which was registered under the name of Andrea de Guzman, and the other half in the names of Servando de Guzman's children, namely, Pablo (married to Amelia Alarcon), Jose, Canuto, Cirilo, Leopoldo, David and Maximino.

In 1942, Andrea, Cirilo, Leopoldo and David died intestate. On July 26, 1950, a petition for the issuance of a new owner's duplicate of OCT No. 10075 was filed by Jose de Guzman, one of the registered owners, due to the loss of the owner's copy of OCT No. 10075. Pursuant to the Order[4] of the Court of First Instance of Bataan, dated August 22, 1950, the Register of Deeds of Bataan was directed to issue a new owner's duplicate of OCT No. 10075. Thereafter, by virtue of an Extrajudicial Settlement of Estate[5] executed on October 16, 1952 by Pablo, Jose, Canuto, Veronica Cruz (surviving spouse of Cirilo and in her capacity as legal administratrix of their minor children, Ernesto, Rosauro and Mercedita), Rogelio and Maximino, wherein they agreed to divide and adjudicate among themselves, in equal parts, the property covered by OCT No. 10075, the latter title was canceled and TCT No. T-3885 was issued in its stead. TCT No. T-3885 was later on divided into three parcels of land covered by TCT Nos. 78181, 78182 and 78183.

TCT No. 78181,[6] registered in the name of the spouses Rosauro and Angelina, was mortgaged by the said Spouses to Bataan Development Bank (BD Bank) on March 25, 1980.[7] Due to the failure of the Spouses to pay

their indebtedness to BD Bank, the mortgaged property was foreclosed and sold to the bank as the highest bidder.

TCT No. 78182,[8] also registered in the name of the spouses Rosauro and Angelina, was sold by the said Spouses to a certain Carlito Pangilinan and Candida Ramos by virtue of a Kasulatan ng Bilihang Tuluyan,[9] dated August 12, 1982. By virtue of the sale, TCT No. 78182 was canceled and superseded by TCT No. 105347.

TCT No. 78183[10] in the name of Pablo, Canuto, Ernesto, Rosauro, Mercedita, Rogelio and Maximino, all surnamed De Guzman, was canceled and superseded by TCT No. T-92048[11] and registered in the name of the spouses Rosauro and Angelina. TCT No. 92048 was mortgaged by Rita A. Paguio, attorney-in-fact of the spouses Rosauro and Angelina,[12] to Republic Planters Bank (RP Bank) on August 11, 1982.[13]

Pedro alleged that he is the grandson of one Zacarias de Guzman who is the brother of one Servando de Guzman. Servando is the grandfather of Rosauro. In other words, Pedro's father (Ildefonso) and Rosauro's father (Cirilo) are first cousins. Zacarias, Servando, and Andrea were siblings.

Pedro, allegedly acting in behalf of his co-heirs, maintained that he is entitled to share in the estate of Andrea. He claimed that, during the lifetime of Andrea, the house which he occupied had already been adjudicated in his favor. He said that he took care of Andrea, who died in his own house. He prayed that he be recognized as the owner and legitimate possessor of a parcel of land, containing an area of 300 square meters, where his house stands. He alleged that BD Bank accepted the land as collateral from the spouses Angelina and Rosauro without conducting the necessary investigation and verification of the actual status of the land. He further prayed for the cancellation of the corresponding title or titles issued, which may affect the area where his house stands. He, likewise, prayed for payment of damages.

Respondent Angelina and the heirs of Rosauro did not answer the complaint despite service of summons, hence, they were declared in default. In its Answer,[14] BD Bank alleged that Pedro's complaint stated no cause of action, as there was no clear allegation that the parcel of land covered by TCT No. 78181 is the same parcel of land over which he has some right or interest. It also failed to show that Pedro was an heir of Andrea and that he was acting in behalf of his co-heirs. RP Bank, in its defense,[15] alleged that Pedro had no cause of action against the bank. The bank acted in good faith and exercised due diligence and verified that the mortgagor has a good title over the property covered by TCT No. 92048.

In its Decision[16] dated April 14, 1994, the RTC dismissed the complaint. Aggrieved by the Decision, Pedro filed a Notice of Appeal,[17] which the CA dismissed in a Resolution dated May 30, 2001, for lack of merit. A motion for reconsideration was filed, which the CA denied in a Resolution dated January 25, 2002.

Pedro died in the interim, thus, his heirs and successors-in-interest (herein petitioners) elevated the case to this Court via Petition for Review on Certiorari[18] under Rule 45 of the Rules of Court, with the following issues:

A. THE COURT OF APPEALS ERRED IN NOT RULING THAT THE PETITIONERS HAVE ACQUIRED THE LAND COVERED BY TCT NO. 78181 AGAINST ANGELINA PERONA AND HEIRS OF ROSAURO DE GUZMAN THRU ORAL PARTITION.

B. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE RESPONDENT BANKS ARE MORTGAGEES IN BAD FAITH.

In the present case, petitioners allege that Pedro acquired the property subject of this case covered by TCT No. 78181 through oral partition. They maintain that respondent BD bank is a mortgagee in bad faith. They, likewise, said that Pedro acquired ownership over the property by virtue of a document executed by Andrea transferring ownership of the property to him. Finally, they are asking for the reconveyance of a parcel of land where Pedro's house is situated.

In its Comment, respondent BD Bank alleges that the issue on whether or not it is a mortgagee in bad faith is a question of fact, and it is not proper for appeal under Rule 45 which deal only with questions of law.

The petition lacks merit.

The petitioner raises two issues in this case, however, upon perusal of the petition, the only issue in this case is whether or not respondent BD Bank is a mortgagee in bad faith.

Petitioners' allegation that their predecessor Pedro acquired the land covered by TCT No. 78181 by means of oral partition cannot be taken cognizance by this Court. This allegation was never raised before the RTC. In the trial court, Pedro's theory was that the property subject of this case was adjudicated to him by virtue of a document executed by Andrea in his favor. Well settled is the rule that issues and arguments not brought before the trial court cannot be raised for the first time on appeal. Basic considerations of due process impel this rule.[19]

Pedro also claims that Andrea transferred to him the parcel of land measuring about 300 square meters, where his house was erected. However, as correctly pointed out by the CA, this claim was not substantiated by evidence.

Records show that Pedro only paid the real property taxes over the properties on March 13, 1984 and January 16, 1985.[20] Prior to 1984, he never paid any taxes over the property which he alleged as his. The Court, therefore, finds that Pedro's payment of real estate taxes in 1984 and 1985 was only an afterthought to give a semblance of his alleged right over the property, and in preparation for the filing of the complaint for reconveyance in April 15, 1985.

Nonetheless, as between respondents' title, embodied in a certificate of title, and Pedro's title, evidenced only by a tax declaration, the former is evidently far superior and is conclusive and an indefeasible proof of respondents' ownership over the property subject of this case. Respondents' certificate of title is binding upon the whole world. Time and again, the Court has ruled that tax declarations and corresponding tax receipts cannot be used to prove title to or ownership of a real property inasmuch as they are not conclusive evidence of the same.[21]

Pedro's allegation that the spouses Rosauero and Angelina resorted to fraud when they caused the cancellation of OCT No. 10075 and the issuance of TCT Nos. 17181, 17182 and 17183 in their name is equally unsupported by evidence. It must be stressed that mere allegations of fraud are insufficient. Intentional acts to deceive and deprive another of his right, or in some manner injure him, must be specifically alleged and proved.[22] For an action for reconveyance based on fraud to prosper, the party seeking reconveyance must prove by clear and convincing evidence his title to the property and the fact of fraud.[23]

Petitioners likewise allege that the heirs of Rosauero and Angelina's failure to answer the complaint before the RTC is an admission of the allegations in Pedro's complaint. The argument does not persuade Us. In civil cases, basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle equally holds true, even if the defendant had not been given the opportunity to present evidence because of a default order. The extent of the relief that may be granted can only be as much as has been alleged and proved with preponderant evidence required under Section 1 of Rule 133 of the Revised Rules on Evidence.[24]

In *Luxuria Homes, Inc., v. Court of Appeals*,[25] the Court held that a judgment by default against a defendant does not imply a waiver of rights, except that of being heard and of presenting evidence in his favor. It does not imply admission by the defendant of the facts and causes of action of the plaintiff, because the codal section requires the latter to adduce his evidence in support of his allegations as an indispensable condition before final judgment could be given in his favor. Nor could it be interpreted as an admission by the defendant that the

plaintiff's causes of action finds support in the law, or that the latter is entitled to the relief prayed for.

Additionally, in *Pascua v. Florendo*,^[26] the Court held that complainants are not automatically entitled to the relief prayed for, once the defendants are declared in default. Favorable relief can be granted only after the court has ascertained that the relief is warranted by the evidence offered and the facts proven by the presenting party. Otherwise, it would be meaningless to require presentation of evidence if every time the other party is declared in default, a decision would automatically be rendered in favor of the non-defaulting party and exactly according to the tenor of his prayer. This is not contemplated by the Rules nor is it sanctioned by the due process clause.

Clearly, the heirs of Rosauero and Angelina's failure to answer cannot be equivalent to an implied admission of the allegations in Pedro's complaint.

Petitioners' submission that respondents merely hold the title to the properties in trust for their predecessor Pedro is without merit. Pedro failed to prove by clear and convincing evidence that the spouses Rosauero and Angelina managed, through fraud, to have the real properties subject of this case registered in their name. In the absence of fraud, no implied trust was established between Pedro and the spouses Rosauero and Angelina under Article 1456^[27] of the New Civil Code. TCT Nos. 17181, 17182 and 17183 are deemed to be fairly and regularly issued.

Delving now on the main issue, petitioners claim that respondent BD Bank is a mortgagee in bad faith, because at the time the property was mortgaged by the spouses Rosauero and Angelina to respondent bank, the said Spouses were not residing in the mortgaged property. As correctly argued by respondent BD Bank, petitions for review under Rule 45 of the Rules of Court may be brought only on questions of law, not on questions of fact.^[28] The question on whether the respondent is a mortgagee in bad faith is clearly a question of fact and, therefore, not proper for appeals under Rule 45.

Further, the trial court found that respondent BD Bank made an inspection of the property that was subsequently accepted as collateral for the loan,^[29] which defeated petitioners' argument that respondent BD Bank did not exercise due diligence in inspecting and ascertaining the status of the mortgage property. The factual findings of trial courts are entitled to great weight and respect on appeal, especially when established by un rebutted testimonial and documentary evidence.^[30] The Court finds the foregoing conclusion drawn by the trial court supported by documentary evidence. Records show that after the spouses Rosauero and Angelina applied for a loan with respondent BD bank, the latter, through its appraiser Oscar M. Ronquillo, conducted an inspection and appraisal^[31] of the property covered by TCT No. 78181, together with the existing improvements thereon. After the said inspection and appraisal of the property, respondent BD Bank approved the loan^[32] in favor of the spouses Rosauero and Angelina and, thereafter, executed a Real Estate Mortgage^[33] with the said Spouses. Clearly, respondent bank was able to present sufficient evidence that the mortgage contract emanated from a valid and regular transaction. Respondent bank, before it accepted the collateral, exercised due diligence in verifying the ownership and status of the land and the improvements existing in the property mortgaged. From the above, it is crystal clear that no fraud can be attributed to respondent BD Bank in approving the Real Estate Mortgage and later on extrajudicially foreclosing the subject property.

WHEREFORE, the petition is DENIED. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 46144, dated May 30, 2001 and January 25, 2002, respectively, are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

- [1] Penned by Associate Justice Eloy R. Bello, Jr., with Associate Justices Eugenio S. Labitoria and Perlita J. Tria Tirona, concurring, rollo, pp. 28-33.
- [2] Rollo, p. 36.
- [3] Id. at 163.
- [4] Id. at 174.
- [5] Id. at 165-167.
- [6] Id. at 168.
- [7] Id. at 9-12.
- [8] Id. at 169-169A.
- [9] Id. at 14.
- [10] Id. at 170-171.
- [11] Id. at 191-192.
- [12] Special Power of Attorney executed by the spouses Rosauro and Angelina in favor of Rita A. Paguio; id. at 190.
- [13] Records, p. 13.
- [14] Id. at 32-40.
- [15] Answer, id. at 25-26.
- [16] Records, pp. 307-312.
- [17] Id. at 313.
- [18] Rollo, pp. 9-21.
- [19] *Del Rosario v. Bonga*, 402 Phil. 949 (2001).
- [20] Records, pp. 160-161.
- [21] *Dinah C. Castillo v. Antonio M. Escutin, Aquilina A. Mistas, Marietta A. Linatoc, and the Honorable Court of Appeals*. G.R. No. 171056, March 13, 2009.
- [22] *Barrera v. Court of Appeals*, G.R. No. 123935, December 14, 2001, 372 SCRA 312, 316-317.
- [23] Id. at 316.
- [24] *Gajudo v. Traders Royal Bank*, G.R. No. 151098, March 21, 2006, 485 SCRA 108, 119-120.
- [25] G.R. No. 125986, January 28, 1999, 302 SCRA 315, 326, citing *De los Santos v. De la Cruz*, 37 SCRA 555 (1971).
- [26] 220 Phil. 588, 595-596 (1985). Cited in *Gajudo v. Traders Royal Bank*, 485 SCRA 108 (2006).
- [27] If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person whom the property comes.

[28] Liberty Construction & Development Corporation v. Court of Appeals, 327 Phil. 490 (1996).

[29] Records, p. 311.

[30] Liberty Construction & Development Corporation v. Court of Appeals, *supra* note 28.

[31] Records, p. 273.

[32] *Id.* at 276.

[33] *Id.* at 277.

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