

HEIRS OF LOURDES SAEZ SABANPAN: BERNARDO S. SABANPAN, RENE S. SABANPAN, DANILO S. SABANPAN AND THELMA S. CHU; HEIRS OF ADOLFO SAEZ: MA. LUISA SAEZ TAPIZ, MA. VICTORIA SAEZ LAPIT...

G.R. No. 152807. August 12, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The admissibility of evidence should be distinguished from its probative value. Just because a piece of evidence is admitted does not ipso facto mean that it conclusively proves the fact in dispute.

The Case

Before us is a Petition for Review[2] under Rule 45 of the Rules of Court, seeking to set aside the August 7, 2001 Decision and the February 27, 2002 Resolution of the Court of Appeals[3](CA) in CA-GR SP No. 60645. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, in view of all the foregoing, the Court hereby AFFIRMS the Decision dated 22 June 2000 rendered by Branch 18 of the Regional Trial Court of Digos, Davao del Sur, REVERSING and SETTING ASIDE the Decision of the Municipal Trial Court of Sta. Cruz, Davao del Sur[r]." [4]

The assailed Resolution[5] denied petitioners' Motion for Reconsideration.

The Facts

The CA summarized the factual antecedents of the case as follows:

"A [C]omplaint for unlawful detainer with damages was filed by [petitioners] against [respondents] before the Santa Cruz, Davao del Sur Municipal Trial Court.

"The [C]omplaint alleged that Marcos Saez was the lawful and actual possessor of Lot No. 845, Land 275 located at Darong, Sta. Cruz, Davao del Sur with an area of 1.2 hectares. In 1960, he died leaving all his heirs, his children and grandchildren.

"In 1965, Francisco Comorposa who was working in the land of Oboza was terminated from his job. The termination of his employment caused a problem in relocating his house. Being a close family friend of [Marcos] Saez, Francisco Comorposa approached the late Marcos Saez's son, [Adolfo] Saez, the husband of Gloria Leano Saez, about his problem. Out of pity and for humanitarian consideration, Adolfo allowed Francisco Comorposa to occupy the land of Marcos Saez. Hence, his nipa hut was carried by his neighbors and transferred to a portion of the land subject matter of this case. Such transfer was witnessed by several people, among them, Gloria Leano and Noel Oboza. Francisco Comorposa occupied a portion of Marcos Saez' property without paying any rental.

"Francisco Comorposa left for Hawaii, U.S.A. He was succeeded in his possession by the respondents who likewise did not pay any rental and are occupying the premises through petitioners' tolerance.

"On 7 May 1998, a formal demand was made upon the respondents to vacate the premises but the latter refused to vacate the same and claimed that they [were] the legitimate claimants and the actual and lawful possessor[s] of the premises. A [C]omplaint was filed with the barangay office of Sta. Cruz[,] Davao del Sur, but the parties failed to arrive at an amicable settlement. Thus, the corresponding Certificate to File Action was issued by the said barangay and an action for unlawful detainer was filed by petitioners against respondents.

"Respondents, in their Answer, denied the material allegations of the [C]omplaint and alleged that they entered and occupied the premises in their own right as true, valid and lawful claimants, possessors and owners of the said lot way back in 1960 and up to the present time; that they have acquired just and valid ownership and possession of the premises by ordinary or extraordinary prescription, and that the Regional Director of the DENR, Region XI has already upheld their possession over the land in question when it ruled that they [were] the rightful claimants and possessors and [were], therefore, entitled to the issuance of a title.

"The Municipal Trial Court of Sta. Cruz, Davao del Sur rendered judgment in favor of petitioners but the Regional Trial Court of Digos, Davao del Sur, on appeal, reversed and set aside the said decision. x x x"[6]

Ruling of the Court of Appeals

Affirming the Regional Trial Court (RTC), the CA upheld the right of respondents as claimants and possessors. The appellate court held that -- although not yet final -- the Order issued by the regional executive director of the Department of Environment and Natural Resources (DENR) remained in full force and effect, unless declared null and void. The CA added that the Certification issued by the DENR's community environment and natural resources (CENR) officer was proof that when the cadastral survey was conducted, the land was still alienable and was not yet allocated to any person.

According to the CA, respondents had the better right to possess alienable and disposable land of the public domain, because they have sufficiently proven their actual, physical, open, notorious, exclusive, continuous and uninterrupted possession thereof since 1960. The appellate court deemed as self-serving, and therefore incredible, the Affidavits executed by Gloria Leano Saez, Noel Oboza and Paulina Paran.

Hence, this Petition.[7]

The Issue

In their Memorandum, petitioners raise the following issues for the Court's consideration:

"I

Did the Court of Appeals gravely abuse its discretion and [err] in sustaining the ruling of the Regional Trial Court giving credence to the Order dated 2 April 1998 issued by the regional executive director?

"II

Did the Court of Appeals gravely abuse its discretion and err in sustaining the Regional Trial Court's ruling giving weight to the CENR Officer's Certification, which only bears the facsimile of the alleged signature of a certain Jose F. Tagorda and, [worse], it is a new matter raised for the first time on appeal?

"III

Did the Court of Appeals gravely abuse its discretion and err in holding that the land subject matter of this case has been acquired by means of adverse possession and prescription?

"IV

Did the Court of Appeals gravely abuse its discretion, and err in declaring that, `neither is there error on the part of the Regional Trial Court, when it did not give importance to the affidavits by Gloria Leano Saez, Noel [Oboza], and Paulina Paran for allegedly being self serving?'"[8]

To facilitate the discussion, the fourth and the third issues shall be discussed in reverse sequence.

The Court's Ruling

The Petition has no merit.

First Issue:

The DENR Order of April 2, 1998

Petitioners claim that the reliance of the CA upon the April 2, 1998 Order issued by the regional director of the DENR was erroneous. The reason was that the Order, which had upheld the claim of respondents, was supposedly not yet final and executory. Another Order dated August 23, 1999,[9] issued later by the DENR regional director, allegedly held in abeyance the effectivity of the earlier one.

Under the Public Land Act,[10] the management and the disposition of public land is under the primary control of the director of lands[11] (now the director of the Lands Management Bureau or LMB),[12] subject to review by the DENR secretary.[13] As a rule, then, courts have no jurisdiction to intrude upon matters properly falling within the powers of the LMB.

The powers given to the LMB and the DENR to alienate and dispose of public land does not, however, divest regular courts of jurisdiction over possessory actions instituted by occupants or applicants to protect their respective possessions and occupations.[14] The power to determine who has actual physical possession or occupation of public land and who has the better right of possession over it remains with the courts.[15] But once the DENR has decided, particularly through the grant of a homestead patent and the issuance of a certificate of title, its decision on these points will normally prevail.[16]

Therefore, while the issue as to who among the parties are entitled to a piece of public land remains pending with the DENR, the question of recovery of possession of the disputed property is a matter that may be addressed to the courts.

Second Issue:

CENR Officer's Certification

Petitioners contend that the CENR Certification dated July 22, 1997 is a sham document, because the signature of the CENR officer is a mere facsimile. In support of their argument, they cite *Garvida v. Sales Jr.*[17] and argue that the Certification is a new matter being raised by respondents for the first time on appeal.

We are not persuaded.

In *Garvida*, the Court held:

"A facsimile or fax transmission is a process involving the transmission and reproduction of printed and graphic matter by scanning an original copy, one elemental area at a time, and representing the shade or tone of each area by a specified amount of electric current. x x x"[18]

Pleadings filed via fax machines are not considered originals and are at best exact copies. As such, they are not admissible in evidence, as there is no way of determining whether they are genuine or authentic.[19]

The Certification, on the other hand, is being contested for bearing a facsimile of the signature of CENR Officer Jose F. Tagorda. The facsimile referred to is not the same as that which is alluded to in *Garvida*. The one mentioned here refers to a facsimile signature, which is defined as a signature produced by mechanical means but recognized as valid in banking, financial, and business transactions.[20]

Note that the CENR officer has not disclaimed the Certification. In fact, the DENR regional director has acknowledged and used it as reference in his Order dated April 2, 1998:

"x x x. CENR Officer Jose F. Tagorda, in a 'CERTIFICATION' dated 22 July 1997, certified among others, that: x x x per records available in his Office, x x x the controverted lot x x x was not allocated to any person x x x." [21]

If the Certification were a sham as petitioner claims, then the regional director would not have used it as reference in his Order. Instead, he would have either verified it or directed the CENR officer to take the appropriate action, as the latter was under the former's direct control and supervision.

Petitioners' claim that the Certification was raised for the first time on appeal is incorrect. As early as the pretrial conference at the Municipal Trial Court (MTC), the CENR Certification had already been marked as evidence for respondents as stated in the Pre-trial Order. [22] The Certification was not formally offered, however, because respondents had not been able to file their position paper.

Neither the rules of procedure [23] nor jurisprudence [24] would sanction the admission of evidence that has not been formally offered during the trial. But this evidentiary rule is applicable only to ordinary trials, not to cases covered by the rule on summary procedure -- cases in which no full-blown trial is held. [25]

Third Issue:

Affidavit of Petitioners' Witnesses

Petitioners assert that the CA erred in disregarding the Affidavits of their witnesses, insisting that the Rule on Summary Procedure authorizes the use of affidavits. They also claim that the failure of respondents to file their position paper and counter-affidavits before the MTC amounts to an admission by silence.

The admissibility of evidence should not be confused with its probative value. Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue. [26] Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence. [27]

While in summary proceedings affidavits are admissible as the witnesses' respective testimonies, the failure of the adverse party to reply does not ipso facto render the facts, set forth therein, duly proven. Petitioners still bear the burden of proving their cause of action, because they are the ones asserting an affirmative relief. [28]

Fourth Issue:

Defense of Prescription

Petitioners claim that the court a quo erred in upholding the defense of prescription proffered by respondents. It is the former's contention that since the latter's possession of the land was merely being tolerated, there was no basis for the claim of prescription. We disagree.

For the Court to uphold the contention of petitioners, they have first to prove that the possession of respondents was by mere tolerance. The only pieces of evidence submitted by the former to support their claim were a technical description and a vicinity map drawn in accordance with the survey dated May 22, 1936. [29] Both of these were discredited by the CENR Certification, which indicated that the contested lot had not yet been allocated to any person when the survey was conducted. [30] The testimony of petitioners' witnesses alone cannot prevail over respondents' continued and uninterrupted possession of the subject lot for a considerable length of time.

Furthermore, this is an issue of fact that cannot, as a rule, be raised in a petition for review under Rule 45. [31]

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

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Also spelled "Ariega" in the pleadings.

[2] Also spelled "Lariega" in the pleadings.

[2] Rollo, pp. 11-37.

[3] Eighth Division. Written by Justice Perlita J. Tria Tirona and concurred in by Justices Eugenio S. Labitoria (Division chairman) and Eloy R. Bello Jr. (member).

[4] Assailed Decision, p. 6; rollo, p. 49.

[5] Rollo, p. 52.

[6] Assailed Decision, pp. 2-3; rollo, pp. 45-46.

[7] This case was deemed submitted for decision on January 15, 2003, upon the Court's receipt of respondents' Memorandum, signed by Atty. William G. Carpentero. Petitioners' Memorandum, filed on January 10, 2003, was signed by Atty. Oswaldo A. Macadangdang.

[8] Petitioners' Memorandum, p. 8; rollo, p. 283. Original in upper case.

[9] Annex I; rollo, pp. 91-92.

[10] Commonwealth Act 141 as amended.

[11] §4 of CA 141 as amended.

[12] The LMB absorbed the functions of the Bureau of Lands, which was abolished by Executive Order No. 131, except those line functions that were transmitted to the regional field offices.

[13] §3 of CA 141 as amended.

[14] *Omandam v. Court of Appeals*, 349 SCRA 483, January 18, 2001; *Solis v. Intermediate Appellate Court*, 198 SCRA 267, June 19, 1991; *Rallon v. Ruiz Jr.*, 138 Phil. 347, May 26, 1969; *Molina et al v. Bacud et al.*, 126 Phil. 166, April 27, 1967; *Bohayang v. Maceren*, 96 Phil. 390, December 29, 1954; *Pitargue v. Sorilla*, 92 Phil. 5, September 17, 1952.

[15] *Solis v. Intermediate Appellate Court*, supra, citing *National Development Company v. Hervilla*, 151 SCRA 520, June 30, 1987; *Espejo v. Malate*, 205 Phil. 216, January 27, 1983.

[16] *Omandam v. Court of Appeals*, supra.

[17] 338 Phil. 484, April 18, 1997.

[18] *Id.*, p. 496, per Puno, J., citing Webster's Third New International Dictionary (1976), p. 813.

[19] *Ibid.*

[20] "Facsimile signature," Webster's Third New International Dictionary (1976), p. 813.

[21] Rollo, p. 104.

[22] *Id.*, p. 121.

[23] §34, Rule 132 of the Rules of Court.

[24] *People v. Carino*, 165 SCRA 664, September 26, 1988; *Veran v. Court of Appeals*, 157 SCRA 438, January 29, 1988.

[25] *Republic of the Philippines v. Court of Appeals*, 277 SCRA 633, August 18, 1997; *De los Reyes v. Intermediate Appellate Court*, 176 SCRA 394, August 11, 1989.

[26] *PNOC Shipping Transport Corporation v. Court of Appeals*, 358 Phil. 38, October 8, 1998.

[27] *Id.*, p. 59.

[28] *People v. Villar*, 322 SCRA 393, January 19, 2000; *Pacific Banking Corporation Employees Organization v. Court of Appeals*, 351 Phil. 438, March 27, 1998; *Rivera v. Court of Appeals*, 348 Phil. 734, January 23, 1998; *Ramcar Incorporated v. Garcia*, 114 Phil. 1026, April 25, 1962.

[29] *Rollo*, pp. 83-84.

[30] *Id.*, p. 105.

[31] §1 of Rule 45 of the Rules of Court; *Heirs of Anastacio Fabela v. Court of Appeals*, 414 Phil 838, August 9, 2001; *American President Lines Ltd. v. Court of Appeals*, 336 SCRA 582, July 31, 2000; *Liberty Construction and Development Corporation v. Court of Appeals*, 327 Phil. 490, June 28, 1996.

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