SPOUSES NICANOR TUMBOKON (DECEASED), SUBSTITUTED BY: ROSARIO SESPEÑE AND THEIR CHILDREN, NAMELY: NICANOR S. TUMBOKON, JR., NELIA S. TUMBOKON, NEMIA T. SEGOVIA, NOBELLA S. TUMBOK...

G.R. No. 153736. August 12, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The question presented in this appeal is whether the ruling in a criminal prosecution for qualified theft (involving coconut fruits) bound the complainant (petitioners herein) and the accused (respondents herein) on the issue of ownership of the land, which was brought up as a defense, as to preclude the Regional Trial Court (RTC) or the Court of Appeals (CA) from adjudicating the same issue in a civil case filed prior to the promulgation of the decision in the criminal case.

Under contention herein are the ownership and possession of that parcel of land with an area of 12,480 square meters, more or less, situated in Barangay Buenavista (formerly Barangay San Isidro, in the Municipality of Ibajay, Province of Aklan. The land - planted to rice, corn, and coconuts - was originally owned by the late Alejandra Sespeñe (Alejandra), who had had two marriages. The first marriage was to Gaudencio Franco, by whom she bore Ciriaca Franco, whose husband was Victor Miralles. The second marriage was to Jose Garcia, by whom she bore respondent Apolonia Garcia (Apolonia), who married Primo Legaspi. Alejandra died without a will in 1935, and was survived by Apolonia and Crisanto Miralles, the son of Ciriaca (who had predeceased Alejandra in 1924) and Victor Miralles; hence, Crisanto Miralles was Alejandra's grandson.

The ownership and possession of the parcel of land became controversial after Spouses Nicanor Tumbokon and Rosario Sespeñe (petitioners) asserted their right in it by virtue of their purchase of it from Cresenciana Inog, who had supposedly acquired it by purchase from Victor Miralles. The tug-of-war over the property between the petitioners and the respondents first led to the commencement of a criminal case. The Spouses Nicanor Tumbokon and Rosario Sespeñe filed a criminal complaint for qualified theft against respondents Apolonia and Paulina S. Magtanum and others not parties herein, namely: Rosendo Magtanum, Antonio Magtanum, Ulpiano Mangilaya, charging them with stealing coconut fruits from the land subject of the present case.[1] The criminal case, docketed as Criminal Case No. 2269, was assigned to Branch III of the erstwhile Court of First Instance (CFI) of Aklan.[2]

After trial, the CFI found the respondents and their co-accused guilty as charged in its decision dated June 10, 1972. The respondents appealed (C.A.-G.R. No. 13830-CR), but the CA affirmed their conviction on February 19, 1975, whereby the CA rejected respondent Apolonia's defense of ownership of the land.[3]

In the meanwhile, on September 21, 1972, or prior to the CA's rendition of its decision in the criminal case, the petitioners commenced this suit for recovery of ownership and possession of real property with damages against the respondents in the CFI. This suit, docketed as Civil Case No. 240 and entitled Spouses Nicanor P. Tumbokon

and Rosario S. Sespeñe v. Apolonia G. Legaspi, Jesus Legaspi, Alejandra Legaspi, Primo Legaspi, Jose Legaspi, and Paulina S. de Magtanum, was assigned also to Branch III of the CFI, and involved the same parcel of land from where the coconut fruits subject of the crime of qualified theft in Criminal Case No. 2269 had been taken.

On February 17, 1994, the RTC, which meanwhile replaced the CFI following the implementation of the Judiciary Reorganization Act,[4] rendered its decision in favor of the petitioners herein, holding and disposing thus:

> After a careful study of the evidence on record, the Court finds that the plaintiffs were able to establish that plaintiff Rosario Sespeñe Tumbokon purchased the land in question from Cresenciana Inog on December 31, 1959 (Exh. "C"). Cresenciana Inog, in turn, acquired the land by purchase from Victor Miralles on June 19, 1957 (Exh. "B"). Seven (7) years before, on May 8, 1950, the land was mortgaged by Victor Miralles to Cresenciana Inog as shown by a Deed of Pacto de Retro (Exh. "A"), and from 1950 up to 1959, Cresenciana Inog was in continuous and peaceful possession of the land in question. xxx
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> x x x x
>
> WHEREFORE, finding preponderance of evidence in favor of the plaintiffs, judgment is hereby rendered as follows:
>
> 1. The plaintiffs are hereby declared the true and lawful owners, and entitled to the possession of the parcel of land of 12,480 square meters in area, declared in the name of plaintiff Rosario S. Tumbokon, under Tax Declaration No. 29220, situated in Barangay Buenavista (formerly San Isidro), Ibajay, Aklan;
>
> 2. The defendants are ordered and directed to vacate the land in question, and restore and deliver the possession thereof to the plaintiffs; and
>
> 3. No pronouncement as to damages, but with costs against the defendants.
>
> SO ORDERED.[5]

The respondents appealed to the CA.

On May 15, 2001, the CA reversed the decision of the RTC and dismissed the complaint,[6] opining and ruling thus:

> The appellees trace their acquisition of the subject lot to the admitted primal owner Alejandra Sespeñe through her supposed sale of it to her son-in-law Victor Miralles, who sold this to Cresenciana Inog, and who in turn sold it to the appellees. In the process, they presented the Deed of Absolute Sale (Exh. "B", June 19, 1957) executed by Victor Miralles in favor of Cresenciana Inog but wherein it is provided in the said instrument that:
>
> That this parcel of land abovementioned was inherited from the deceased Alejandra Sespeñe, by the party of the First Part being the sole heir of the said Alejandra Sespeñe, having no other brothers or sisters.

This claim of being the sole heir is obviously false and erroneous for Alejandra Sespeñe had more than one intestate heir, and Victor Miralles as a mere son-in-law could not be one of them.

This also damages and puts to serious doubt their other and contradictory claim that Victor Miralles instead bought the lot from Alejandra Sespeñe. This supposed sale was oral, one that can of course be facilely feigned. And it is likely to be so for the claim is sweeping, vacuous and devoid of the standard particulars like what was the price, when and where was the sale made, who were present, or who knew of it. The record is bereft too of documentary proof that Victor Miralles exercised the rights and performed the obligations of an owner for no tax declarations nor tax receipt has been submitted or even adverted to.

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The testimonial evidence of the appellants as to ownership, the sale and possession is inadequate, with even the appellant Nicanor Tumbokon stating that:

> Q Did you come to know before you purchase (sic) the property from whom did V. Miralles acquired (sic) the land?
> A No, sir.
>
> x x x
>
> Q And you did not come to know out (sic) and why V. Miralles came to possess the land under litigation before it was sold to C. Inog?
> A All I was informed was V. Miralles became automatically the heir of A. Sespeñe after the death of the wife which is the only daughter of A. Sespeñe.
>
> Q How did you know that V. Miralles became automatically the heir of the land after the death of his wife?
> A He is the only son-in-law. (TSN, pp. 2-3, Feb. 26, 1974; emphasis supplied)

While Victor Miralles may have been in physical possession of the lot for a while, this was not as owner but as mere Administrator as was clearly appearing in tax declaration no. 21714 ("Exhs. "J", "1").The corroboration in this by Lourdes Macawili (TSN, June 7, 1973) does not help the appellees (herein petitioners) any for she never knew the source of the property. Neither does the testimony of Crisanto Miralles succor the appellees (petitioners). He was the son of Victor Miralles and the husband of the said Cresenciana Inog, the supposed buyer, owner and possessor of the land in question from 1950-1957, and yet Crisanto Miralles could only say:

> Q Are there improvements on the land in question?
> A I do not know because I did not bother to go to the land in question. (TSN, p. 4, Aug. 18, 1973; emphasis supplied)]

These strongly suggest that the sales and claim of possession were shams, and are further demolished by the following testimonies:

> Q After the death of Alejandra Sespeñe who inherited this land in question?
> A Apolonia.
>
> Q At present who is in possession of the land in question?
> A Apolonia Legaspi.
>
> Q From the time that Apolonia Legaspi took possession of the land up to the present do you know if anybody interrupted her possession?
> A No sir. (tsn, Urbana Tañ-an Vda. de Franco, p. 7, Nov. 24, 1977)
>
> x x x
>
> Q Now, since when did you know the land in question?
> A Since I was at the age of 20 yrs. old. (TSN; Crispina Taladtad, p. 3; Jan. 20, 1977; [she was 74 yrs. old at the time of this testimony]).
>
> x x x
>
> Q And for how long has Apolonia Garcia Legaspi been in possession of the land in question?
> A Since the time I was at the age of 20 yrs. old when I was been (sic) invited there to work up to the present she is in possession of the land.
>
> Q You said that you know Cresenciana Inog, do you know if Cresenciana Inog has ever possessed the land in question?

A Never.

Q You also said that you know Nicanor Tumbokon and his wife Rosario Tumbokon, my question is do you know if this Nicanor Tumbokon and his wife Rosario have ever possessed and usufructed this land under litigation?
A No, sir.

Q You also stated a while ago that you know Victor Miralles, do you know if Victor Miralles had ever possessed this under litigation?
A No, he had not. (p. 9, ibid; emphasis supplied)

Thus neither do We buy the appellee's contention that ownership of the disputed land was acquired by their predecessors-in-interest thru lapse of time. Acquisitive prescription requires possession in the concept of owner, and they have not been able to prove even mere possession.

As proponents it was incumbent upon the appellees to prove that they were the owners of the lot and that they were being unlawfully deprived of their possession thereof. But this they failed to do. It is a basic rule in evidence that each party must prove his affirmative allegation. Since the burden of evidence lies with the party who asserts the affirmative allegation, the plaintiff or complainant has to prove this affirmative allegations in the complaint and the defendant or the respondent has to prove the affirmative allegation in his affirmative defenses and counterclaim. (AKELCO vs. NLRC, G.R. No. 121439, Jan. 25, 2000)

But this hoary rule also cuts both ways. Appellants too must also prove the allegations to support their prayer to declare the litigated lot the exclusive property of the defendants Apolonia G. Legaspi and Paulina S. Magtanum; (Answer, p. 6, record). Apolonia Legaspi however is only one of the putative intestate heirs of Alejandra Sespeñe, the other being Crisanto Miralles who stands in the stead of Ciriaca, his predeceased mother and other daughter of the decedent. But then no judgment can be made as to their successional rights for Crisanto Miralles was never impleaded. Neither is there a proof that can convince that Paulina S. Magtanum who is merely a niece of the decedent, should also be declared a co-owner of the inherited lot.

Because of said inadequacies, We cannot rule beyond the holding that the appellees (petitioners) are not the owners and therefore not entitled to the recovery of the litigated lot.

WHEREFORE, the appealed Decision is REVERSED and SET ASIDE and in its place judgment is rendered DISMISSING the Complaint.

SO ORDERED.[7]

Hence, the petitioners appeal by petition for review on certiorari.

Issues

The issues to be resolved are the following:

- Whether or not the decision in C.A.-G.R. CV 45672 reversing the decision of the RTC in Civil Case No. 240 was supported by law and the evidence on record;

- Whether or not the decision in C.A.-G.R. No. 13830-CR affirming the decision of the CFI of Aklan in Criminal Case No. 2269 had the effect of res judicata on the issue of ownership of the land involved in Civil Case No. 240, considering that such land was the same land involved in Criminal Case No. 2269.

Ruling

The petition has no merit.

A
Reversal by the CA was supported
by law and the evidence on record

The CA correctly found that the petitioners' claim of ownership could not be legally and factually sustained.

First of all, the petitioners adduced no competent evidence to establish that Victor Miralles, the transferor of the land to Cresenciana Inog (the petitioners' immediate predecessor in interest) had any legal right in the first place to transfer ownership. He was not himself an heir of Alejandra, being only her son-in-law (as the husband of Ciriaca, one of Alejandra's two daughters). Thus, the statement in the deed of absolute sale (Exhibit B) entered into between Victor Miralles and Cresenciana Inog, to the effect that the "parcel of land was inherited from the deceased Alejandra Sespeñe" by Victor Miralles "being the sole heir of the said Alejandra Sespeñe, having no other brothers or sisters," was outrightly false.

Secondly, a decedent's compulsory heirs in whose favor the law reserves a part of the decedent's estate are exclusively the persons enumerated in Article 887, Civil Code, viz:

> Article 887. The following are compulsory heirs:
>
> (1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;
>
> (2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;
>
> (3) The widow or widower;
>
> (4) Acknowledged natural children, and natural children by legal fiction;
>
> (5) Other illegitimate children referred to in article 287.
>
> Compulsory heirs mentioned in Nos. 3, 4, and 5 are not excluded by those in Nos. 1 and 2; neither do they exclude one another.
>
> In all cases of illegitimate children, their filiation must be duly proved.
>
> The father or mother of illegitimate children of the three classes mentioned, shall inherit from them in the manner and to the extent established by this Code. (807a)

Only two forced heirs survived Alejandra upon her death, namely: respondent Apolonia, her daughter, and Crisanto Miralles, her grandson. The latter succeeded Alejandra by right of representation because his mother, Ciriaca, had predeceased Alejandra. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if she were living or if she could have inherited.[8] Herein, the representative (Crisanto Miralles) was called to the succession by law and not by the person represented (Ciriaca); he thus succeeded Alejandra, not Ciriaca.[9]

The foregoing undeniable facts rendered the hearsay testimony of Nicanor Tumbokon to the effect that he had been informed that Victor Miralles had "bec[o]me automatically the heir" of Alejandra "after the death of his wife," the wife being "the only daughter" and he "the only son-in-law" a plain irrelevancy.

Thirdly, Victor Miralles' supposed acquisition of the land by oral sale from Alejandra had no competent factual support in the records. For one, the oral sale was incompatible with the petitioners' anchor claim that he had

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acquired the land by inheritance from Alejandra. Also, the evidence that the petitioners adduced on the oral sale was insufficient and incredible, warranting the CA's rejection of the oral sale under the following terms:

> This also damages and puts to serious doubt their other and contradictory claim that Victor Miralles instead bought the lot from Alejandra Sespeñe. This supposed sale was oral, one that can of course be facilely feigned. And it is likely to be so for the claim is sweeping, vacuous and devoid of the standard particulars like what was the price, when and where was the sale made, who were present, or who knew of it. The record is bereft too of documentary proof that Victor Miralles exercised the rights and performed the obligations of an owner for no tax declarations nor tax receipt has been submitted or even adverted to.[10]

With Victor Miralles lacking any just and legal right in the land, except as an heir of Ciriaca, the transfer of the land from him to Cresenciana Inog was ineffectual. As a consequence, Cresenciana Inog did not legally acquire the land, and, in turn, did not validly transfer it to the petitioners.

B
Bar by res judicata is not applicable.

The petitioners submit that the final ruling in the criminal case had already determined the issue of ownership of the land; and that such ruling in the criminal case barred the issue of ownership in the civil case under the doctrine of res judicata.

The submission has no merit.

Res judicata means a matter adjudged, a thing judicially acted upon or decided; a thing or matter settled by judgment.[11] The doctrine of res judicata is an old axiom of law, dictated by wisdom and sanctified by age, and founded on the broad principle that it is to the interest of the public that there should be an end to litigation by the same parties over a subject once fully and fairly adjudicated. It has been appropriately said that the doctrine is a rule pervading every well-regulated system of jurisprudence, and is put upon two grounds embodied in various maxims of the common law: the one, public policy and necessity, which makes it to the interest of the State that there should be an end to litigation - reipublicae ut sit finis litium; the other, the hardship on the individual that he should be vexed twice for one and the same cause - nemo debet bis vexari pro una et eadem causa. A contrary doctrine will subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition on the part of suitors to the preservation of the public tranquillity and happiness.[12]

Under the doctrine of res judicata, a final judgment or decree on the merits rendered by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits and on all points and matters determined in the previous suit.[13] The foundation principle upon which the doctrine rests is that the parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.[14]

For res judicata to bar the institution of a subsequent action, the following requisites must concur: (1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be between the first and second actions (a) identity of parties, (b) identity of the subject matter, and (c) identity of cause of action.[15]

The doctrine of res judicata has two aspects: the first, known as bar by prior judgment, or estoppel by verdict, is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand, or cause of action; the second, known as conclusiveness of judgment, also known as the rule of auter action pendant, ordains that issues actually and directly resolved in a former suit cannot again be raised in any future case between the

same parties involving a different cause of action and has the effect of preclusion of issues only.[16]

Based on the foregoing standards, this action is not barred by the doctrine of res judicata.

First of all, bar by prior judgment, the first aspect of the doctrine, is not applicable, because the causes of action in the civil and the criminal actions were different and distinct from each other. The civil action is for the recovery of ownership of the land filed by the petitioners, while the criminal action was to determine whether the act of the respondents of taking the coconut fruits from the trees growing within the disputed land constituted the crime of qualified theft. In the former, the main issue is the legal ownership of the land, but in the latter, the legal ownership of the land was not the main issue. The issue of guilt or innocence was not dependent on the ownership of the land, inasmuch as a person could be guilty of theft of the growing fruits even if he were the owner of the land.

Conclusiveness of judgment is not also applicable. The petitioners themselves commenced both actions, and fully and directly participated in the trial of both actions. Any estoppel from assailing the authority of the CA to determine the ownership of the land based on the evidence presented in the civil action applied only to the petitioners, who should not be allowed to assail the outcome of the civil action after the CA had ruled adversely against them.

Moreover, the doctrine of conclusiveness of judgment is subject to exceptions, such as where there is a change in the applicable legal context, or to avoid inequitable administration of justice.[17] Applying the doctrine of conclusiveness of judgments to this case will surely be iniquitous to the respondents who have rightly relied on the civil case, not on the criminal case, to settle the issue of ownership of the land. This action for recovery of ownership was brought precisely to settle the issue of ownership of the property. In contrast, the pronouncement on ownership of the land made in the criminal case was only the response to the respondents having raised the ownership as a matter of defense.

WHEREFORE, the petition for review on certiorari is denied, and the decision rendered on May 15, 2001 by the Court of Appeals is affirmed.

Costs of suit to be paid by the petitioners.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Abad,[*] and Villarama, Jr., JJ., concur.

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[*] Additional member per Special Order No. 843 dated May 17, 2010.

[1] CA Decision, CA-G.R. CV-No. 45672 dated May 15, 2001, penned by Justice Roberto A. Barrios (deceased), with Justices Ramon Mabutas, Jr. (retired) and Edgardo P. Cruz (retired), concurring; rollo, pp. 24-32.

[2] Rollo, p. 25.

[3] Id., pp. 65-71 (The ponente was then Associate Justice Ramon C. Fernandez, and the concurring members were then Associate Justice Efren I. Plana and Associate Justice Venicio Escolin, all of whom became Members of the Court, but had since retired).

[4] Batas Pambansa Blg. 129.

[5] Penned by Judge Sheila Martelino-Cortes; rollo, pp. 35-37.

[6] Supra, at note 1.

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[7] Rollo, pp. 28-32.

[8] Article 970, Civil Code.

[9] Article 971, Civil Code.

[10] Supra, at note 1, p. 28.

[11] Manila Electric Company v. Philippine Consumers Foundation, Inc., G.R. No. 101783, January 23, 2002, 374 SCRA 262, 272.

[12] Allied Banking Corporation v. Court of Appeals, G.R. No. 108089, January 10, 1994, 229 SCRA 252.

[13] Dela Cruz v. Joaquin, G.R. No. 162788, July 28, 2005, 464 SCRA 576.

[14] Republic v. Court of Appeals, G.R. No. 101115, August 22, 2002, 387 SCRA 549.

[15] Custodio v. Corrado, G.R. No. 146082, July 30, 2004, 435 SCRA 500; Suarez v. Court of Appeals, G.R. No. 83251, January 23, 1991; 193 SCRA 183; Filipinas Investment and Finance Corporation v. Intermediate Appellate Court, G.R. No. 66059-60, December 4, 1989 (July 30 2004).

[16] Rasdas v. Estenor, G.R. No. 157605, December 13, 2005, 477 SCRA 538, 548.

[17] Kilosbayan, Inc. v. Morato, G.R. No. 118910, July 17, 1995, 246 SCRA 540, 561.

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