

BETTY B. LACBAYAN, PETITIONER, VS. BAYANI S. SAMOY, JR., RESPONDENT.

G.R. No. 165427. March 21, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

This settles the petition for review on certiorari filed by petitioner Betty B. Lacbayan against respondent Bayani S. Samoy, Jr. assailing the September 14, 2004 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 67596. The CA had affirmed the February 10, 2000 Decision[2] of the Regional Trial Court (RTC), Branch 224, of Quezon City declaring respondent as the sole owner of the properties involved in this suit and awarding to him P100,000.00 as attorney's fees.

This suit stemmed from the following facts.

Petitioner and respondent met each other through a common friend sometime in 1978. Despite respondent being already married, their relationship developed until petitioner gave birth to respondent's son on October 12, 1979.[3]

During their illicit relationship, petitioner and respondent, together with three more incorporators, were able to establish a manpower services company.[4] Five parcels of land were also acquired during the said period and were registered in petitioner and respondent's names, ostensibly as husband and wife. The lands are briefly described as follows:

- A 255-square meter real estate property located at Malvar St., Quezon City covered by TCT No. 303224 and registered in the name of Bayani S. Samoy, Jr. "married to Betty Lacbayan." [5]
- A 296-square meter real estate property located at Main Ave., Quezon City covered by TCT No. 23301 and registered in the name of "Spouses Bayani S. Samoy and Betty Lacbayan." [6]
- A 300-square meter real estate property located at Matatag St., Quezon City covered by TCT No. RT-38264 and registered in the name of Bayani S. Samoy, Jr. "married to Betty Lacbayan Samoy." [7]
- A 183.20-square meter real estate property located at Zobel St., Quezon City covered by TCT No. 335193 and registered in the name of Bayani S. Samoy, Jr. "married to Betty L. Samoy." [8]
- A 400-square meter real estate property located at Don Enrique Heights, Quezon City covered by TCT No. 90232 and registered in the name of Bayani S. Samoy, Jr. "married to Betty L. Samoy." [9]

Initially, petitioner lived with her parents in Mapagbigay St., V. Luna, Quezon City. In 1983, petitioner left her parents and decided to reside in the property located in Malvar St. in Project 4, Quezon City. Later, she and their son transferred to Zobel St., also in Project 4, and finally to the 400-square meter property in Don Enrique Heights.[10]

Eventually, however, their relationship turned sour and they decided to part ways sometime in 1991. In 1998, both

parties agreed to divide the said properties and terminate their business partnership by executing a Partition Agreement.[11] Initially, respondent agreed to petitioner's proposal that the properties in Malvar St. and Don Enrique Heights be assigned to the latter, while the ownership over the three other properties will go to respondent.[12] However, when petitioner wanted additional demands to be included in the partition agreement, respondent refused.[13] Feeling aggrieved, petitioner filed a complaint for judicial partition[14] of the said properties before the RTC in Quezon City on May 31, 1999.

In her complaint, petitioner averred that she and respondent started to live together as husband and wife in 1979 without the benefit of marriage and worked together as business partners, acquiring real properties amounting to P15,500,000.00.[15] Respondent, in his Answer,[16] however, denied petitioner's claim of cohabitation and said that the properties were acquired out of his own personal funds without any contribution from petitioner.[17]

During the trial, petitioner admitted that although they were together for almost 24 hours a day in 1983 until 1991, respondent would still go home to his wife usually in the wee hours of the morning.[18] Petitioner likewise claimed that they acquired the said real estate properties from the income of the company which she and respondent established.[19]

Respondent, meanwhile, testified that the properties were purchased from his personal funds, salaries, dividends, allowances and commissions.[20] He countered that the said properties were registered in his name together with petitioner to exclude the same from the property regime of respondent and his legal wife, and to prevent the possible dissipation of the said properties since his legal wife was then a heavy gambler.[21] Respondent added that he also purchased the said properties as investment, with the intention to sell them later on for the purchase or construction of a new building.[22]

On February 10, 2000, the trial court rendered a decision dismissing the complaint for lack of merit.[23] In resolving the issue on ownership, the RTC decided to give considerable weight to petitioner's own admission that the properties were acquired not from her own personal funds but from the income of the manpower services company over which she owns a measly 3.33% share.[24]

Aggrieved, petitioner elevated the matter to the CA asserting that she is the pro indiviso owner of one-half of the properties in dispute. Petitioner argued that the trial court's decision subjected the certificates of title over the said properties to collateral attack contrary to law and jurisprudence. Petitioner also contended that it is improper to thresh out the issue on ownership in an action for partition.[25]

Unimpressed with petitioner's arguments, the appellate court denied the appeal, explaining in the following manner:

Appellant's harping on the indefeasibility of the certificates of title covering the subject realties is, to say the least, misplaced. Rather than the validity of said certificates which was nowhere dealt with in the appealed decision, the record shows that what the trial court determined therein was the ownership of the subject realties - itself an issue correlative to and a necessary adjunct of the claim of co-ownership upon which appellant anchored her cause of action for partition. It bears emphasizing, moreover, that the rule on the indefeasibility of a Torrens title applies only to original and not to subsequent registration as that availed of by the parties in respect to the properties in litigation. To our mind, the inapplicability of said principle to the case at bench is even more underscored by the admitted falsity of the registration of the selfsame realties in the parties' name as husband and wife.

The same dearth of merit permeates appellant's imputation of reversible error against the trial court for supposedly failing to make the proper delineation between an action for partition and an action involving ownership. Typically brought by a person claiming to be co-owner of a specified property against a defendant or defendants whom the plaintiff recognizes to be co-owners, an action for partition may be seen to present

simultaneously two principal issues, i.e., first, the issue of whether the plaintiff is indeed a co-owner of the property sought to be partitioned and, second - assuming that the plaintiff successfully hurdles the first - the issue of how the property is to be divided between plaintiff and defendant(s). Otherwise stated, the court must initially settle the issue of ownership for the simple reason that it cannot properly issue an order to divide the property without first making a determination as to the existence of co-ownership. Until and unless the issue of ownership is definitely resolved, it would be premature to effect a partition of the properties. This is precisely what the trial court did when it discounted the merit in appellant's claim of co-ownership.[26]

Hence, this petition premised on the following arguments:

- Ownership cannot be passed upon in a partition case.
- The partition agreement duly signed by respondent contains an admission against respondent's interest as to the existence of co-ownership between the parties.
- An action for partition cannot be defeated by the mere expedience of repudiating co-ownership based on self-serving claims of exclusive ownership of the properties in dispute.
- A Torrens title is the best evidence of ownership which cannot be outweighed by respondent's self-serving assertion to the contrary.
- The properties involved were acquired by both parties through their actual joint contribution of money, property, or industry.[27]

Noticeably, the last argument is essentially a question of fact, which we feel has been squarely threshed out in the decisions of both the trial and appellate courts. We deem it wise not to disturb the findings of the lower courts on the said matter absent any showing that the instant case falls under the exceptions to the general rule that questions of fact are beyond the ambit of the Court's jurisdiction in petitions under Rule 45 of the 1997 Rules of Civil Procedure, as amended. The issues may be summarized into only three:

- Whether an action for partition precludes a settlement on the issue of ownership;
- Whether the Torrens title over the disputed properties was collaterally attacked in the action for partition; and
- Whether respondent is estopped from repudiating co-ownership over the subject realties.

We find the petition bereft of merit.

Our disquisition in *Municipality of Biñan v. Garcia*[28] is definitive. There, we explained that the determination as to the existence of co-ownership is necessary in the resolution of an action for partition. Thus:

The first phase of a partition and/or accounting suit is taken up with the determination of whether or not a co-ownership in fact exists, and a partition is proper (i.e., not otherwise legally proscribed) and may be made by voluntary agreement of all the parties interested in the property. This phase may end with a declaration that plaintiff is not entitled to have a partition either because a co-ownership does not exist, or partition is legally prohibited. It may end, on the other hand, with an adjudgment that a co-ownership does in truth exist, partition is proper in the premises and an accounting of rents and profits received by the defendant from the real estate in question is in order. x x x

The second phase commences when it appears that "the parties are unable to agree upon the partition" directed by the court. In that event[,] partition shall be done for the parties by the [c]ourt with the assistance of not more than three (3) commissioners. This second stage may well also deal with the rendition of the accounting itself and its approval by the [c]ourt after the parties have been accorded opportunity to be heard thereon, and an award for the recovery by the party or parties thereto entitled of their just share in the rents and profits of the real estate in question. x x x[29] (Emphasis supplied.)

While it is true that the complaint involved here is one for partition, the same is premised on the existence or non-existence of co-ownership between the parties. Petitioner insists she is a co-owner pro indiviso of the five real estate properties based on the transfer certificates of title (TCTs) covering the subject properties. Respondent maintains otherwise. Indubitably, therefore, until and unless this issue of co-ownership is definitely and finally resolved, it would be premature to effect a partition of the disputed properties.[30] More importantly, the complaint will not even lie if the claimant, or petitioner in this case, does not even have any rightful interest over the subject properties.[31]

Would a resolution on the issue of ownership subject the Torrens title issued over the disputed realties to a collateral attack? Most definitely, it would not.

There is no dispute that a Torrens certificate of title cannot be collaterally attacked,[32] but that rule is not material to the case at bar. What cannot be collaterally attacked is the certificate of title and not the title itself.[33] The certificate referred to is that document issued by the Register of Deeds known as the TCT. In contrast, the title referred to by law means ownership which is, more often than not, represented by that document.[34] Petitioner apparently confuses title with the certificate of title. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.[35]

Moreover, placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. Ownership is different from a certificate of title, the latter only serving as the best proof of ownership over a piece of land. The certificate cannot always be considered as conclusive evidence of ownership.[36] In fact, mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate, or that the registrant may only be a trustee, or that other parties may have acquired interest over the property subsequent to the issuance of the certificate of title.[37] Needless to say, registration does not vest ownership over a property, but may be the best evidence thereof.

Finally, as to whether respondent's assent to the initial partition agreement serves as an admission against interest, in that the respondent is deemed to have admitted the existence of co-ownership between him and petitioner, we rule in the negative.

An admission is any statement of fact made by a party against his interest or unfavorable to the conclusion for which he contends or is inconsistent with the facts alleged by him.[38] Admission against interest is governed by Section 26 of Rule 130 of the Rules of Court, which provides:

Sec. 26. Admissions of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

To be admissible, an admission must (a) involve matters of fact, and not of law; (b) be categorical and definite; (c) be knowingly and voluntarily made; and (d) be adverse to the admitter's interests, otherwise it would be self-serving and inadmissible.[39]

A careful perusal of the contents of the so-called Partition Agreement indicates that the document involves matters which necessitate prior settlement of questions of law, basic of which is a determination as to whether the parties have the right to freely divide among themselves the subject properties. Moreover, to follow petitioner's argument would be to allow respondent not only to admit against his own interest but that of his legal spouse as well, who may also be lawfully entitled co-ownership over the said properties. Respondent is not allowed by law to waive whatever share his lawful spouse may have on the disputed properties. Basic is the rule that rights may be waived, unless the waiver is contrary to law, public order, public policy, morals, good customs or prejudicial to a third person with a right recognized by law.[40]

Curiously, petitioner herself admitted that she did not assent to the Partition Agreement after seeing the need to amend the same to include other matters. Petitioner does not have any right to insist on the contents of an agreement she intentionally refused to sign.

As to the award of damages to respondent, we do not subscribe to the trial court's view that respondent is entitled to attorney's fees. Unlike the trial court, we do not commiserate with respondent's predicament. The trial court ruled that respondent was forced to litigate and engaged the services of his counsel to defend his interest as to entitle him an award of P100,000.00 as attorney's fees. But we note that in the first place, it was respondent himself who impressed upon petitioner that she has a right over the involved properties. Secondly, respondent's act of representing himself and petitioner as husband and wife was a deliberate attempt to skirt the law and escape his legal obligation to his lawful wife. Respondent, therefore, has no one but himself to blame the consequences of his deceitful act which resulted in the filing of the complaint against him.

WHEREFORE, the petition is DENIED. The September 14, 2004 Decision of the Court of Appeals in CA-G.R. CV No. 67596 is AFFIRMED with MODIFICATION. Respondent Bayani S. Samoy, Jr. is hereby declared the sole owner of the disputed properties, without prejudice to any claim his legal wife may have filed or may file against him. The award of P100,000.00 as attorney's fees in respondent's favor is DELETED.

No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, and Sereno, JJ., concur.
Brion, J., see separate opinion.

[1] Rollo, pp. 28-42. Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Portia Aliño-Hormachuelos and Aurora Santiago-Lagman, concurring;

[2] CA rollo, pp. 35-39.

[3] Records, p. 108.

[4] Rollo, p. 29.

[5] Records, pp. 7-8, 51-52.

[6] Id. at 9-10, 57-58.

[7] Id. at 11-12, 55-56.

[8] Id. at 13-14, 53-54.

[9] Id. at 15-16, 59-60.

[10] Rollo, p. 31.

[11] Records, pp. 61-64.

[12] Id. at 63.

[13] Rollo, p. 32.

[14] Records, pp. 2-6.

[15]Id. at 2.

[16] Id. at 26-28.

[17]Id. at 26.

[18] TSN, Betty B. Lacbayan, October 20, 1999, pp. 52-54.

[19] Id. at 57-58.

[20] TSN, Bayani Samoy, Jr., December 10, 1999, pp. 22-23 and 27.

[21] Id. at 28-31.

[22] Id. at 29-32.

[23]The dispositive portion of the February 10, 2000 RTC Decision reads:

WHEREFORE, premises considered, the present complaint is hereby DISMISSED for lack of merit and the defendant is hereby adjudged as the sole owner of the properties which are the subject matters of this case. Furthermore, the plaintiff is hereby directed to pay the defendant the amount of P100,000.00 as and for attorney's fees and to pay the cost of this suit.

SO ORDERED. (CA rollo, p. 39.)

[24] CA rollo, pp. 37-39.

[25] Id. at 23.

[26] Rollo, pp. 35-37.

[27] Id. at 17-18, 21-22.

[28] G.R. No. 69260, December 22, 1989, 180 SCRA 576.

[29] Id. at 584-585.

[30]See *Fabrica v. Court of Appeals*, No. L-47360, December 15, 1986, 146 SCRA 250, 255-256.

[31] *Catapusan v. Court of Appeals*, G.R. No. 109262, November 21, 1996, 264 SCRA 534, 538.

[32] Section 48 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, states in full:

SEC. 48. Certificate not subject to collateral attack. - A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

[33] *Lee Tek Sheng v. Court of Appeals*, G.R. No. 115402, July 15, 1998, 292 SCRA 544, 547.

[34] Id.

[35] Id. at 548.

[36] Id. at 547-548.

[37] Id. at 548.

[38] Regalado, *Remedial Law Compendium*, Vol. II., 2004 edition, p. 715, citing 31 C.J.S. 1022.

[39] Id.

[40] Art. 6, Civil Code.

SEPARATE OPINION

BRION, J.:

This case stemmed from a complaint for judicial partition of several properties based on the petitioner's assertion of co-ownership. As in other civil cases, the burden of proof rests on the party (the petitioner in this case) who, as determined by the pleadings or the nature of the case, asserts the affirmative in the issue presented.[1]

Subject to my observations below, I find that the petitioner failed to discharge by clear preponderant evidence her co-ownership of the subject properties to warrant their judicial partition. I confine myself to this conclusion, however, as the issue before us is solely on whether a judicial partition should be made. Specifically and as articulated in my observations below, I cannot join the ponencia's other rulings.

Article 148 of the Family Code which applies to the property relationship in a cohabitation situation, is clear on the conditions it imposes. The first sentence of this article states:

In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. [underscoring supplied]

Thus, any property acquired during the cohabitation can only be considered common property if two (2) conditions are met: first, there must be evidence showing that the properties were acquired by the parties during their cohabitation; and second, there must be evidence that the properties were acquired through the parties' actual joint contribution of money, property, or industry. Stated plainly, co-ownership only arises when there is clear proof showing the acquisition of the property during the cohabitation of the parties, and the actual joint contribution of the parties to acquire the same. These two (2) conditions must concur.

On the contribution aspect of these elements, mere cohabitation under Article 148 of the Family Code, without proof of contribution, will not result in a co-ownership; proof of actual contribution must be established by clear evidence showing that the party either used his or her own money or that he or she actually contributed his or her own money to purchase the property.[2] Jurisprudence holds that this fact may be proven by evidence in the form of bank account statements and bank transactions as well as testimonial evidence proving the financial capacity of the party to purchase the property or contribute to the purchase of a property.[3]

In this case, the presumption of co-ownership over the subject properties between the petitioner and the respondent did not arise. While the first condition was duly proven by evidence, the second condition was not.

The records sufficiently establish the first condition showing the acquisition of the subject properties from 1978 to 1991 or during the cohabitation of the petitioner and the respondent. The second condition is not similarly established since no evidence was adduced showing the petitioner's actual contributions in the acquisition of the subject properties.

Since the petition asserts an affirmative allegation (i.e., her co-ownership of the subject properties to which she bases her action for judicial partition) she carries the burden of substantiating her claim. She failed in this regard. The records show that she did not present any evidence showing that the funds or a portion of the funds used to purchase the subject properties came from her own earnings. On the contrary, the petitioner presented

contradictory evidence when she admitted that the funds used to purchase the subject properties did not come from her own earnings but from the income of the manpower business which she managed. The Regional Trial Court found that she only owned 3.33% of share in this corporation.

Unless there is a clear showing to the contrary, income from a business cannot automatically be considered as personal earnings, especially in this case where the income the petitioner referred to is corporate income. The petitioner should have presented evidence showing that the income she referred to actually accrued to her in the form of salaries, bonuses, commissions and/or dividends from the manpower business. Otherwise, the rule regarding the corporation's distinct legal personality from its officers, stockholders and members applies.[4] Unless otherwise shown, the source of the earnings would be the corporation's, not the petitioner's.

I additionally observe that except for one, all the subject properties name the respondent as the exclusive registered owner. Although the mere issuance of a certificate of title in the name of any person does not foreclose the possibility that the real properties covered thereby may be under co-ownership with the petitioner and vice-versa, the fact remains that the subject properties are registered in the respondent's name. The rebuttable presumption is that these properties belong to the respondent or to the conjugal partnership of the respondent, in line with Article 116 of the Family Code and Article 160 of the Civil Code.[5]

In sum, the petitioner's case for judicial partition of the subject properties has no legal basis in the absence of a clear evidence of co-ownership proven under the circumstances. Consequently, we must deny the petition for lack of merit without.

As final observations, I disagree with the Majority's conclusion declaring the respondent as the sole owner of all the properties sought to be partitioned. Records show that the petitioner is a registered co-owner of one of the five (5) properties cited in this case, i.e., the real estate under TCT No. 23301 registered in the name of "Spouses Bayani S. Samoy and Betty Lachbayan." By the tenor of its decision, the Majority effectively (and unnecessarily) introduced a cloud over the petitioner's interests in this commonly-owned property. I note, too, that the complaint underlying this petition is an action for partition; the adjudication of this case should necessarily be limited to resolving the propriety of the partition sought. Notably, the Majority itself recognizes that registration in one's name is without prejudice to an action seeking to establish co-ownership.

In light of the undisputed joint ownership of the property commonly registered under the parties' names, this Decision should be without prejudice to an action for partition to divide up this property - a remedy we cannot now provide in the absence of any factual basis on how the parties contributed in acquiring this property. Alternatively, the actual partition of this commonly-owned property should be remanded to the trial court for determination of how partition should be made.

The phrase, "without prejudice to any claim his legal wife may have filed or may file against him" in the last part of the dispositive portion of the Decision, is similarly objectionable. For one, no issue exists in this case between the legitimate spouses regarding the nature of the properties they commonly or individually hold. Additionally, the phrase creates the impression that the Court is giving legal advice to the wife of the respondent on what course of action to take against her husband. This statement is beyond what this Court should properly state in its Decision given the facts and issues posed, and is plainly uncalled for.

Subject to these observations, I concur with the opinion of the Majority.

[1] Saguid v. Court of Appeals, G.R. No. 150611, June 10, 2003, 403 SCRA 678.

[2] Villanueva v. Court of Appeals, G.R. No. 143286, April 14, 2004, 427 SCRA 439.

[3] Atienza v. De Castro, G.R. No. 169698, November 29, 2006, 508 SCRA 593.

[4] AMA Computer College-East Rizal v. Ignacio, G.R. No. 178520, June 23, 2009, 590 SCRA 633.

[5] Atienza v. De Castro, *supra* note 3, at 603.

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