SPOUSES JONEL PADILLA AND SARAH PADILLA, PETITIONERS, VS. ISAURO A. VELASCO, TEODORA A. VELASCO, DELIA A. VELASCO, VALERIANO A. VELASCO, JR., IDA A. VELASCO, AMELITA C. VELASCO,...

G.R. No. 169956. January 19, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated February 11, 2005 and the Resolution[2] dated October 4, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 69997 entitled "Isauro A. Velasco, Teodora A. Velasco, Delia A. Velasco, Valeriano A. Velasco, Jr., Ida A. Velasco, Amelita C. Velasco, Eriberto C. Velasco, Jr. and Celia C. Velasco v. Spouses Jonel Padilla and Sarah Padilla."

The Facts
The facts of the case are as follows:

Respondents are the heirs of Dr. Artemio A. Velasco (Artemio), who died single and without any issue on January 22, 1949. During his lifetime, Artemio acquired Lot No. 2161 consisting of 7,791 square meters situated at Barangay Pinagsanjan, Pagsanjan, Laguna, covered by Tax Declaration No. 4739. Artemio acquired the lot from spouses Brigido Sacluti and Melitona Obial, evidenced by a deed of sale dated February 14, 1944.

In October 1987, petitioners entered the property as trustees by virtue of a deed of sale executed by the Rural Bank of Pagsanjan in favor of spouses Bartolome Solomon, Jr. and Teresita Padilla (Solomon spouses).

Respondents demanded that petitioners vacate the property, but the latter refused. The matter was referred to the barangay for conciliation; however, the parties failed to reach an amicable settlement. Thereafter, petitioners caused the cutting of trees in the area, fenced it and built a house thereon. They harvested the crops and performed other acts of dominion over the property.

On October 14, 1991, respondents filed a complaint for accion publiciana, accounting and damages against petitioners before the Regional Trial Court (RTC) of Santa Cruz, Laguna. They asked the court to order petitioners to vacate the property and to pay moral and exemplary damages, attorney's fees and cost of suit.

Isauro A. Velasco (Isauro), the brother of the deceased Artemio, as administrator of the property, was presented as a witness. He testified that Artemio owned the property. As evidence thereof, he presented the Kasulatan ng Bilihang Tuluyan executed by spouses Brigido Sacluti and Melitona Obial in favor of Artemio, and declared that he (Isauro) was present during the signing of the instrument. He offered in evidence tax declarations and tax receipts covering Lot No. 2161 which were all in the name of Artemio. A certification from the Land Registration Authority (LRA) was likewise presented by Isauro which states that based on the records of the LRA, Decree No. 403348 was issued on October 10, 1930 covering Lot No. 2161.[3]

Rolando R. Flores, a geodetic engineer, also testified that on January 16, 1993, upon prior notice to petitioners, he conducted a survey of the land based on the technical description of the property and the map from the Bureau of Lands. The purpose of the survey was to verify if the area occupied by petitioners was Lot No. 2161. Upon his examination and based on his survey, he concluded that the land occupied by petitioners was Lot No. 2161.[4]

On the other hand, petitioners averred that the Solomon spouses owned the property; that the said spouses bought it from the Rural Bank of Pagsanjan as evidenced by a deed of sale dated September 4, 1987; that the land was identified as Lot No. 76-pt, consisting of 10,000 square meters, located at Pinagsanjan, Pagsanjan, Laguna; and that the spouses authorized petitioners to occupy the land and introduce improvements thereon.

Petitioners further claimed that subsequent to the sale of the property to the Solomon spouses, Lot No. 76-pt. was levied on in Civil Case No. 320 under the jurisdiction of the Municipal Trial Court of Pagsanjan, Laguna. The case was entitled "Rural Bank of Pagsanjan, Inc. v. Spouses Hector and Emma Velasco, Valeriano Velasco and Virginia Miso." Petitioners alleged that Valeriano Velasco obtained a loan from the Rural Bank of Pagsanjan, with Hector Velasco as co-maker, and the land was mortgaged by Valeriano as collateral. Valeriano's failure to pay the loan caused the foreclosure of the land, and on September 17, 1980, Lot No. 76-pt was sold at a public auction by the Provincial Sheriff. The Rural Bank of Pagsanjan was the highest bidder.

Pedro Zalameda Trinidad, Jr. (Pedro), as a witness for the petitioners, testified that he was born in Barangay Pinagsanjan, Pagsanjan, Laguna, and had been residing there since birth. He said that based on his knowledge, the land belonged to Nonong (Valeriano) Velasco because he used to buy coconuts harvested from the said land and it was Nonong Velasco who caused the gathering of coconuts thereon.[5]

Petitioner Jonel Padilla also took the witness stand. He testified that Pedro was occupying the land when he initially visited it. A representative of the Rural Bank of Pagsanjan disclosed to him that the land previously belonged to Valeriano. He verified from the Municipal Assessor the technical description of the land, but no longer verified from the Bureau of Lands because he trusted the bank. Upon his recommendation, his sister and his brother-in-law purchased the property after verifying the supporting documents. It was his brother-in-law who went to the Bureau of Lands and found that it was Lot No. 2161.[6]

On July 27, 1999, the RTC rendered a Decision,[7] the dispositive portion of which reads:

> WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered in favor of the [respondents] ordering the [petitioners] to vacate the land presently occupied by them and restore possession thereof to the [respondents], to render an accounting of the proceeds from the crop harvested therefrom starting September 1987 up to the time the property is returned to the [respondents], and to remove at their expense all the structures they constructed thereon.[8]

Petitioners filed an appeal before the CA, but on February 11, 2005, the CA issued the assailed decision affirming the decision of the RTC. They consequently filed a motion for reconsideration. However, the same was denied in the assailed resolution dated October 4, 2005.

Hence, the instant petition.

The Issues
Petitioners anchor their petition on the following grounds:

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I.

The alleged sale executed between Brigido Sacluti and Melitona Obial as seller and Dr. Artemio [Velasco] as buyer was never established, respondents having failed to present the original copy thereof during the trial despite their clear and categorical commitment to do so. Furthermore, the purported Original Certificate of Title issued in the name of Brigido Sacluti and Melitona Obial was never presented in evidence, thus, creating the presumption that had it been presented, the same would have been adverse to respondents.[9]

II.

The spouses Solomon acquired the subject property from its lawful owner in good faith and for value.[10]

III.

The spouses Solomon acquired the subject property at the public auction sale conducted by the provincial sheriff of Laguna based on the judgment and writ of execution issued by the Municipal Trial Court of Laguna against respondent Valeriano Velasco for non-payment of a loan considering that (1) the issuance of Tax Declaration No. 4624 in the name of respondent Valeriano Velasco is entitled to the presumption of regularity especially since respondents have not explained how and why it was wrongly issued in the name of their own brother, respondent Valeriano Velasco and without any of them taking any action to correct the alleged mistake; and (2) by their failure to assert their alleged ownership of the property and their inaction [by not] questioning the legal action taken by the bank against their co-respondent Valeriano Velasco and the subject property despite their full awareness since 1980, respondents are barred by estoppel from denying
the title of the bank and the Solomon spouses.[11]

IV.

The action a quo was barred by prescription considering that respondents filed their legal action against the petitioners only on October 14, 1991, more than ten (10) years after the bank had acquired the subject property on September 17, 1980 at the public auction conducted by the Provincial Sheriff of Laguna.[12]

V.

At the very least, respondents are guilty of laches, they having slept on their rights for an unreasonable length of time such that to dispossess etitioners of the property after they had introduced substantial improvements thereon in good faith would result in undue damage and injury to them all due to the silence and inaction of respondents in asserting their alleged ownership over the property.[13]

VI.

The evidence proves that Lot no. 2161 and Lot no. 76-pt are one and the same.[14]

VII.

The failure of Atty. Asinas to present other witnesses, additional documents and to respond to certain pleadings brought about by his serious illnesses constitutes excusable negligence or incompetency to warrant a new trial considering that the Supreme Court itself had recognized "negligence or incompetency of counsel as a ground for new trial" especially if it has resulted in serious injustice or to an uneven playing field.[15]

VIII.

The overwhelming testimonial and documentary evidence, if presented, would have altered the result and the decision now appealed from. [16]

IX.

The petitioners should be awarded their counterclaim for exemplary damages, attorney's fees and litigation expenses.[17]

The arguments submitted by petitioners may be summed up in the following issues:

- Who, as between the parties, have a better right of possession of Lot No. 2161;

- Whether the complaint for accion publiciana has already prescribed; and

- Whether the negligence of respondent's counsel entitles them to a new trial.

The Ruling of the Court
We deny the instant petition.

First. The instant case is for accion publiciana, or for recovery of the right to possess. This was a plenary action filed in the regional trial court to determine the better right to possession of realty independently of the title.[18] Accion publiciana is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and can no longer be maintained under Rule 70 of the Rules of Court. The objective of the plaintiffs in accion publiciana is to recover possession only, not ownership.[19]

Based on the findings of facts of the RTC which were affirmed by the CA, respondents were able to establish lawful possession of Lot No. 2161 when the petitioners occupied the property. Lot No. 2161 was the subject of Decree No. 403348 based on the decision dated October 10, 1930 in Cadastre (Cad.) Case No. 11, LRC Record No. 208. The Original Certificate of Title to the land was issued to Brigido Sacluti and Melitona Obial. On February 14, 1944, the original owners of the land sold the same to Artemio. From the date of sale, until Artemio's death on January 22, 1949, he was in continuous possession of the land. When Artemio died, Isauro acted as administrator of the land with Tomas Vivero as caretaker. In 1987, petitioners occupied the property by virtue of a deed of sale between the Rural Bank of Pagsanjan and the Solomon spouses. The land bought by the Solomon spouses from the Bank is denominated as Lot No. 76-pt and previously owned by Valeriano. However, it was proved during trial that the land occupied by petitioners was Lot No. 2161 in the name of Artemio, whereas the land sold by the bank to the petitioners was Lot No. 76-pt.

Given this factual milieu, it can readily be deduced that respondents are legally entitled to the possession of Lot No. 2161.

It is a long-standing policy of this Court that the findings of facts of the RTC which were adopted and affirmed by the CA are generally deemed conclusive and binding. This Court is not a trier of facts and will not disturb the factual findings of the lower courts unless there are substantial reasons for doing so.[20] In the instant case, we find no exceptional reason to depart from this policy.

Second. The case filed by respondents for accion publiciana has not prescribed. The action was filed with the RTC on October 14, 1991. Petitioners dispossessed respondents of the property in October 1987. At the time of the filing of the complaint, only four (4) years had elapsed from the time of dispossession.

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Under Article 555(4) of the Civil Code of the Philippines, the real right of possession is not lost till after the lapse of ten years. It is settled that the remedy of accion publiciana prescribes after the lapse of ten years.[21] Thus, the instant case was filed within the allowable period.

Third. Petitioners put in issue that Lot No. 2161 and Lot 76-pt are one and the same, and that the land was owned by Valeriano when it was foreclosed by the bank. This, in effect, is a collateral attack on the title over the property which is registered in the name of Artemio.

We cannot countenance this stance of the petitioners, and perforce, must strike it down. Title to a registered land cannot be collaterally attacked.[22] A separate action is necessary to raise the issue of ownership.

In accion publiciana, the principal issue is possession, and ownership is merely ancillary thereto. Only in cases where the possession cannot be resolved without resolving the issue of ownership may the trial court delve into the claim of ownership. This rule is enunciated in Refugia v. CA,[23] where the Court declared, viz.:

> Where the question of who has prior possession hinges on the question of who the real owner of the disputed portion is, the inferior court may resolve the issue of ownership and make a declaration as to who among the contending parties is the real owner. In the same vein, where the resolution of the issue of possession hinges on a determination of the validity and interpretation of the document of title or any other contract on which the claim of possession is premised, the inferior court may likewise pass upon these issues. This is because, and it must be so understood, that any such pronouncement made affecting ownership of the disputed portion is to be regarded merely as provisional, hence, does not bar nor prejudice an action between the same parties involving title to the land.

Fourth. Petitioners aver that they are entitled to a new trial due to the failure of their counsel in the proceedings before the RTC to present testimonial and documentary evidence necessary for them to obtain a favorable judgment. They maintain that the failure of their counsel to present these other evidence was due to counsel's lingering illness at that time, and therefore, constitutes excusable negligence.

It may be reiterated that mistakes of counsel as to the competency of witnesses, the sufficiency and relevancy of evidence, the proper defense, or the burden of proof, as well as his failure to introduce certain evidence or to summon witnesses and to argue the case, are not proper grounds for a new trial, unless the incompetence of counsel be so great that his client is prejudiced and prevented from fairly presenting his case.[24]

In this case, the illness of petitioners' counsel and his alleged failure to present additional evidence during the trial of the case do not constitute sufficient ground for a new trial. The Order[25] issued by the trial court in its denial of the motion for new trial filed by petitioners aptly explains the reason why a new trial is unnecessary, viz.:

> Assuming that Atty. Asinas failed to perform the imputed acts by reason of his ailments, still, the same is insufficient ground to grant a new trial. The evidence on record established the fact that [respondents] and their predecessors-in-interest have been in possession of the subject realty for a long time. Their possession was interrupted by [petitioners] who entered the property in [1987] pursuant to a deed of sale between the Rural Bank of Pagsanjan and spouses Bartolome C. Solomon and Teresita Padilla. Considering that this is an accion publiciana and [respondents'] earlier rightful possession of the subject parcel of land has been adequately established, the testimonial and documentary evidence sought to be adduced in a new trial would not adversely affect the findings of the Court. The ownership and possession of the property purchased by the Solomon spouses from the Rural Bank of Pagsanjan could be the subject of an appropriate action.

WHEREFORE, the instant petition is DENIED for lack of merit. Costs against the petitioners.

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SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Leonardo-De Castro[*], JJ., concur.

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* Additional member per Special Order No. 546 dated January 5, 2009.

[1] Penned by Associate Justice Marina L. Buzon, with Associate Justices Mario L. Guariña III and Santiago Javier Ranada, concurring; rollo, pp. 94-105.

[2] Rollo, p. 132.

[3] Id. at 107.

[4] Id. at 108.

[5] Id. at 109.

[6] Id.

[7] Penned by Judge Leonardo L. Leonida, Regional Trial Court, Branch 27, Santa Cruz, Laguna; rollo, pp. 106-111.

[8] Rollo, p. 111.

[9] Id. at 269.

[10] Id. at 276.

[11] Id. at 278.

[12] Id. at 289.

[13] Id. at 291.

[14] Id. at 293.

[15] Id. at 298.

[16] Id. at 307.

[17] Id. at 310.

[18] Sps. Cruz v. Torres, 374 Phil. 529, 533 (1999).

[19] Natalia Realty, Inc. v. Court of Appeals, 440 Phil. 1, 25 (2002).

[20] The exceptions to the general rule that the findings of facts of the RTC and the CA are deemed conclusive and binding to this Court are the following: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of facts are premised on the supposed absence of evidence and

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contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. (Pilipinas Shell Petroleum Corporation v. Gobonseng, Jr., G.R. No. 163562, July 21, 2006, 496 SCRA 305, 316.)

[21] Cutanda v. Heirs of Cutanda, 390 Phil. 740, 751 (2000).

[22] Section 48 of Presidential Decree No. 1529 provides, thus:

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.

[23] 327 Phil. 982, 1006 (1996).

[24] Palanca v. The American Food Manufacturing Company, 133 Phil. 872, 882 (1968); People v. Manzanilla, 43 Phil. 167, 169 (1922).

[25] Rollo, p. 114.

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