

RAUL PALOMATA, PETITIONER, VS. NESTOR COLMENARES AND TERESA GURREA, RESPONDENTS.

G.R. No. 174251. December 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Factual findings of trial and appellate courts that are well-supported by the evidence on record are binding on this Court.

This is a Petition for Review[1] under Rule 45 assailing the December 21, 2005 Decision,[2] as well as the July 18, 2006 Resolution[3] in CA-G.R. CV No. 55205. The dispositive portion of the assailed Decision reads:

WHEREFORE and in the light of the foregoing, the Decision appealed from is AFFIRMED in toto.

SO ORDERED.[4]

Factual antecedents

This case involves a parcel of land along the Camambugan Creek in Balasan, Iloilo on which stand petitioner Raul Palomata's (Raul) house and talyer. Letecia Colmenares (Letecia),[5] claiming ownership over the said land, filed a criminal complaint for squatting against Raul in 1981.[6] However, for reasons undisclosed by the records, the case was eventually dismissed.[7]

In order to prevent further ejectment from the subject property, Raul, together with his father Alipio, filed a complaint in 1984 before Branch 30 of the Iloilo City Regional Trial Court, sitting as a Court of Agrarian Relations (CAR), for "maintenance and damages" against Letecia, her son Nestor Colmenares, and Teresa Gurrea.[8] The complaint alleged that Alipio Palomata (Alipio) was the bona fide agricultural lessee of Letecia. After the issuance of Presidential Decree No. 27,[9] an approximate two-hectare portion of Colmenares' landholding was awarded to Alipio, who was issued Certificate of Land Transfer (CLT) No. 10055.[10] Raul contended that the subject property occupied by his house and talyer was part of Alipio's farmlot. Thus, Raul and Alipio prayed to be maintained in the subject property and that the Colmenareses be ordered to refrain from ejecting the Palomatas from the subject property.[11]

The Colmenareses admitted that Alipio was their agricultural lessee but denied any knowledge of the survey which led to the issuance of the CLT in Alipio's favor. The Colmenareses countered that the property claimed by Raul is within their subdivision, not within the agricultural land tenanted by Alipio.[12] They prayed that the subject property be excluded from Alipio's land transfer certificate.[13] Should the property be included in Alipio's CLT, they prayed that the same be declared null and void because they were not informed of the survey conducted by the Department of Agrarian Reform (DAR).[14]

During the trial, both parties attempted to prove their right to the subject property. Aside from presenting Alipio's CLT, Raul presented two DAR investigation reports, which stated that the survey conducted by the Bureau of

Lands revealed that the subject property lies within Alipio's farmlot. These two surveys were conducted because of the conflict that ensued between the Palomatas and the Colmenareses.[15] However, both these surveys were concluded without notifying the Colmenareses.[16] Raul also presented Alipio's tax declaration[17] covering the awarded farmlot.

On the other hand, the Colmenareses presented two tax declarations, which covered Lots 2-A[18] and 36-A.[19] The talyer allegedly occupies portions of Lot 36-A (207 square meters) and Lot 2-A (162 square meters).[20] They likewise assailed the validity of the surveys conducted by the Bureau of Lands on the basis that these were conducted without the presence of officials from the DAR and without notifying the Colmenareses.

Ruling of the Regional Trial Court[21]

Based on the evidence presented by the contesting parties, the trial court ruled that the subject property was not part of Alipio's farmlot. The trial court noted that Alipio's tax declaration itself cited the Camambugan Creek as the southern boundary of his farmlot. However, upon ocular inspection, the court observed that the subject property lies across the Camambugan Creek. The trial court thus concluded that the subject property is physically separate from, and is not included in, Alipio's farmlot.[22]

The trial court gave little credence to the surveys conducted by the Bureau of Lands given that these were conducted without notifying the Colmenareses. Moreover, the witnesses that were supposed to affirm the contents of the investigation reports were ambivalent and refused to validate the findings of the Bureau of Lands. For instance, Rodolfo Italia (Rodolfo), the DAR assistant team leader, stated that the DAR had not confirmed the survey made by the Bureau of Lands.[23] Crisanto Babao (Crisanto), the Bureau of Lands' official sent to the subject property to investigate, also refused to affirm the findings of the survey because he did not participate therein.[24] Lastly, the court found the report unreliable because it contained an observation that, upon inspection, the subject property appeared separate from Alipio's farmlot.

Given the finding that the subject property lies outside Alipio's farmlot, the court went on to determine if Raul, being Alipio's successor, had a right to the subject property as his homelot. The trial court held that Raul, not being an agricultural lessee of the Colmenareses, had no right to a homelot. The court explained that Raul's unilateral installation as Alipio's successor was void because it violated the landowners' right to choose the successor as provided under Section 9 of the Code of Agrarian Reform.[25]

The dispositive portion of the trial court ruling is as follows:

WHEREFORE, all of the foregoing considered, judgment is hereby rendered -

1. Declaring the lot in question - where Raul's house and battery and auto repair shop are located - not part of Alipio's farmlot;
2. Ordering the plaintiffs, particularly Raul, their agents and privies, to vacate the lot in question, to remove all the buildings and improvements they have constructed thereon, and to turn over the ownership and possession of said lot to the defendants, their heirs or successors;
3. Ordering the plaintiffs to pay the defendants the amount of P2,000.00 as attorney's fees;
4. Dismissing the claim of the plaintiffs for damages, attorney's fees and litigation expenses for lack of merit; and
5. Ordering the plaintiffs to pay the costs of the suit.

SO ORDERED.

Iloilo City, July 15, 1994.[26]

Raul appealed the decision to the Court of Appeals (CA).

Ruling of the Court of Appeals[27]

The appellate court noted that Raul merely rehashed all the arguments he had already presented to the trial court. The evidence presented by Raul before the trial court were not convincing, especially in light of the fact that Raul's witnesses themselves were reluctant to declare the subject property as part of Alipio's farmlot.

Since Raul did not prove that the subject property was part of his father's farmlot, the subject property remained part of Colmenares' landholding. As landowner, Colmenares had the right to oust an intruder thereon; hence, the trial court's order for Raul to vacate the subject property was correct.

Raul moved for reconsideration[28] where he admitted for the first time that, while the appeal was pending, he filed a petition for re-allocation of Alipio's farmholding with the DAR.[29] The DAR granted his petition in an Order dated July 27, 2000, which decision had allegedly attained finality.[30] The dispositive portion thereof states:

WHEREFORE, premises considered, ORDER is hereby issued:

1. GRANTING the herein petition for re-allocation filed by Raul Palomata. Consequently, Lot No. 2-B, with an area of 1.8698 hectares shall be awarded/allocated to him;
2. DIRECTING the Provincial Agrarian Reform Officer of Iloilo and Municipal Agrarian Reform Officer of Balasan, Iloilo to generate Emancipation Patent in favor of the new allocatee; and
3. DIRECTING the PARO and MARO concerned to strictly implement this Order.

SO ORDERED.[31]

Raul did not state how this DAR Order affected the CA Decision. He only argued in his motion for reconsideration that, being an occupant of the subject property, he enjoyed the presumption of ownership. He also contended that, absent a contrary survey, the Bureau of Lands' survey should be respected.

The CA denied[32] the motion for reconsideration. Hence, this petition.

Issues

Following are the issues raised by petitioner:

1. Whether the trial and appellate courts erred in the appreciation of facts when they ruled that the subject property is not included in the farmlot covered by CLT No. 10055;
2. Whether the trial and appellate courts erred in the appreciation of facts when they ruled that the subject property belongs to respondents;
3. Whether the trial and appellate courts erred in ordering the petitioner to vacate the subject property, remove the improvements thereon, and to return possession thereof to respondents.

Our Ruling

A factual review of the case is beyond the province of a Rule 45 petition. In seeking a review of the factual conclusions of the trial and appellate courts, petitioner Raul insists that the instant case falls under the exceptions because these conclusions are allegedly not supported by the evidence on record. Petitioner also contends that the

two courts below misinterpreted facts that would materially affect the disposition of the case. Contrary to petitioner's arguments, the Court finds the conclusions of the two courts adequately supported by the evidence on record.

In their complaint, the Palomatas recognized the Colmenareses as the owners of the subject property, but the Palomatas claimed entitlement to the subject property by virtue of Alipio's CLT which awarded a farmlot to Alipio. But the said CLT did not indicate the metes and bounds of the awarded farmlot; it only stated that the farmlot awarded to Alipio consisted of two hectares. Hence, it became necessary to prove, beyond the CLT, that the subject property is actually included in Alipio's farmlot. The Palomatas, however, failed to discharge this burden. On the contrary, what appeared during the trial was that the subject property was actually not included in Alipio's farmlot.

The Palomatas presented Alipio's tax declaration[33] covering the awarded farmlot, which described the actual boundaries thereof as the following:

North: AR-00141, National Road
East: National Road to Carlos
South: AR-00145, Camambugan Creek
West: Lot 143, AR-00141

Instead of helping the Palomatas' cause, the trial court found the stated southern boundary of the farmlot (the Camambugan Creek) as evidence that the subject property was not included therein. The ocular inspection revealed that the subject property lies on the other side of the Camambugan Creek, physically separate from Alipio's farmlot. The trial court thus concluded that the subject property is not part of the farmlot, which conclusion is not unwarranted. The declaration that the farmlot is bounded on the south by the Camambugan Creek reveals Alipio's admission and understanding that his farmlot extends up to the creek only, and not across. Since the subject property is across the creek, it is but fair to conclude that it is not part of the farmlot. This is particularly significant considering that the Palomatas failed to offer any contrary explanation and considering that the tax declaration was their very own evidence.

The other pieces of evidence offered by the Palomatas to prove that the subject property was within Alipio's farmlot were the two investigation reports of the DAR. The Palomatas were relying on the fact that it was stated therein that the Bureau of Lands surveyed the land and found that the subject property lies within Alipio's farmlot. However, the findings of the two reports were disavowed on the witness stand by the officials who participated therein.

The engineer, who was supposed to have conducted the survey, denied doing so and pointed to Crisanto and Carlos Baldeovar (Carlos) as the actual surveyors.[34]

When placed on the witness stand, Crisanto denied conducting the survey and pointed to Carlos as the actual surveyor.[35]

When it was Carlos' turn to testify, he revealed that he was not a geodetic engineer[36] but was a high school graduate,[37] thus disclosing his lack of qualification to officially conduct the survey. Interestingly, Carlos also testified that it was Crisanto who prepared the written report of the survey.[38] Thus, it appears that the report was written by someone who did not actually conduct the survey and the person who actually conducted the survey had no qualifications to do so on his own.

Also damning to these surveys is the refusal of Rodolfo, the assistant team leader of the DAR, Balasan, Iloilo, to confirm its findings. When asked to confirm the survey of the Bureau of Lands, Rodolfo stated that the DAR will

still conduct its own survey of the property.[39] Further, Rodolfo stated that upon DAR's inspection, the subject property appeared to lie outside Alipio's farmlot, contrary to the findings of the Bureau of Lands.

All these circumstances support the trial and the appellate court's refusal to give the investigation reports much weight and credence. This Court will not disturb the conclusions arrived at by the CAR and the appellate court when these are well-supported by the evidence.[40]

Raul then argues that the trial and appellate courts should have given more weight to the surveys of the Bureau of Lands because these carry the presumption of the regular performance of official duty.

The argument fails to convince. There is a presumption of regular performance of official duty only when there is nothing on record that would arouse suspicions of irregularity.[41] The refusal of the Bureau of Lands and DAR officials to affirm their written findings in open court indicates that the presumption should not apply in the evaluation of these reports.

In sum, the CLT, tax declaration and investigation reports offered by the Palomatas as evidence of their right to the subject property are, at best, inconclusive and insufficient to prove their claim that the subject property is included in Alipio's farmlot. In fact, they even prove quite the opposite: that the subject property is actually not included in the farmlot.

Raul then maintains that the Colmenareses did not prove their ownership over the subject lot; hence it should be presumed that the lot is owned by its current possessor.

Raul's argument ignores the fact that, by alleging their right to the subject property as tenant-farmers of the Colmenareses, the Palomatas readily admitted that the land belonged to the Colmenareses. Thus, if Raul fails, as he did fail, to prove that the subject property was awarded to his father through a CLT, then the presumption is that it remains the property of the Colmenareses.

Raul proceeds to question the trial and appellate court's order for him to vacate the premises and surrender possession thereof to the Colmenareses. He contends that the said order goes beyond the prayer of the Colmenareses, which was limited to the annulment of the CLT or the exclusion of the subject property from the CLT's coverage.

The argument is specious at best. While the Colmenareses' prayer does not expressly include the ejectment of the Palomatas, it does include a prayer for the court to declare that the subject property was excluded from Alipio's CLT. A necessary consequence to the exclusion of the subject property from Alipio's CLT is the ejectment of the Palomatas therefrom. The Palomatas have no right to stay on the subject property if it is not covered by Alipio's CLT.

Raul's next argument is based on a supervening event that allegedly resolves Raul's right to succeed to Alipio's farmlot. For the first time in his motion for reconsideration before the CA, Raul revealed that he had filed a petition for re-allocation sometime after 1993,[42] which was favorably acted upon by the DAR, as evidenced by its Order dated July 27, 2000.[43] However, this development, even assuming that it could be raised at such late a stage, would not change the outcome of the case. The re-allocation of Alipio's farmlot to another person (Raul) is irrelevant to the subject property precisely because the subject property is not part of the farmlot.

WHEREFORE, premises considered, the petition is denied for lack of merit. The December 21, 2005 Decision of the Court of Appeals in CA-G.R. CV No. 55205 and its July 18, 2006 Resolution denying the motion for reconsideration, are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] Rollo, pp. 4-30.

[2] Id. at 50-60; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Arsenio J. Magpale and Vicente L. Yap.

[3] Id. at 77-78.

[4] CA Decision, p. 10; id. at 59.

[5] Also spelled as "Leticia" in some parts of the records. Leticia Colmenares died on January 6, 2002 per the death certificate filed by the respondents (CA rollo, p. 98).

[6] RTC Decision, p. 2; records, p. 402.

[7] The cause for the dismissal is unknown given that neither of the parties attached a copy of the order of dismissal.

[8] Records, pp. 1-4.

[9] Decreeing the Emancipation of Tenants from the Bondage of the Soil Transferring to Them the Ownership of the Land They Till and Providing the Instruments and Mechanism Therefor.

[10] Records, p. 185.

[11] Id. at 3.

[12] Id. at 5.

[13] Id. at 7.

[14] Id. at 5-7.

[15] Id. at 187, 189-190.

[16] Id. at 190.

[17] Id. at 191.

[18] Id. at 388.

[19] Id. at 388-A.

[20] Id. at 386-387.

[21] Id. at 401-411; penned by Judge Jesus G. Alonsagay of Branch 30 of the Regional Trial Court of Iloilo City.

[22] RTC Decision, p. 5; id. at 405.

[23] Id. at 6-7; id. at 406-407.

[24] Id. at 7-8; id. at 407-408.

[25] Republic Act No. 3844, as amended.

- [26] RTC Decision, p. 11; records, p. 411.
- [27] CA rollo, pp. 106-119.
- [28] Id. at 131-140.
- [29] Motion for Reconsideration, p. 4; id. at 135.
- [30] Id. at 4-5; id. at 135-136.
- [31] Id. at 142.
- [32] Id. at 189-190.
- [33] Records, p. 191.
- [34] TSN of Carlos Baldelovar, p. 7 (Hearing of August 20, 1986).
- [35] TSN of Crisanto Babao, pp. 3-4 (Hearing of May 21, 1986).
- [36] TSN of Carlos Baldelovar, p. 4 (Hearing of August 20, 1986).
- [37] Id. at 13.
- [38] Id. at 10.
- [39] TSN of Rodolfo Italia, p. 9 (Hearing of September 11, 1986).
- [40] *Malate v. Court of Appeals*, G.R. No. 55318, February 9, 1993, 218 SCRA 572, 576; *Heirs of E.B. Roxas, Inc. v. Tolentino*, 249 Phil. 334, 339 (1988).
- [41] *People v. Obmiranis*, G.R. No. 181492, December 16, 2008, 574 SCRA 140, 156.
- [42] Petitioner's Memorandum, p. 30; rollo, p. 204.
- [43] CA rollo, pp. 141-142.

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