

HEIRS OF ARTURO REYES, REPRESENTED BY EVELYN R. SAN BUENAVENTURA, PETITIONERS, VS. ELENA SOCCO-BELTRAN, RESPONDENT.

G.R. No. 176474. November 27, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated 31 January 2006 rendered by the Court of Appeals in CA-G.R. SP No. 87066, which affirmed the Decision[2] dated 30 June 2003 of the Office of the President, in O.P. Case No. 02-A-007, approving the application of respondent Elena Socco-Beltran to purchase the subject property.

The subject property in this case is a parcel of land originally identified as Lot No. 6-B, situated in Zamora Street, Dinalupihan, Bataan, with a total area of 360 square meters. It was originally part of a larger parcel of land, measuring 1,022 square meters, allocated to the Spouses Marcelo Laquian and Constancia Socco (Spouses Laquian), who paid for the same with Japanese money. When Marcelo died, the property was left to his wife Constancia. Upon Constancia's subsequent death, she left the original parcel of land, along with her other property, with her heirs - her siblings, namely: Filomena Eliza Socco, Isabel Socco de Hipolito, Miguel R. Socco, and Elena Socco-Beltran.[3] Pursuant to an unnotarized document entitled "Extrajudicial Settlement of the Estate of the Deceased Constancia R. Socco," executed by Constancia's heirs sometime in 1965, the parcel of land was partitioned into three lots--Lot No. 6-A, Lot No. 6-B, and Lot No. 6-C.[4] The subject property, Lot No. 6-B, was adjudicated to respondent, but no title had been issued in her name.

On 25 June 1998, respondent Elena Socco-Beltran filed an application for the purchase of Lot No. 6-B before the Department of Agrarian Reform (DAR), alleging that it was adjudicated in her favor in the extra-judicial settlement of Constancia Socco's estate.[5]

Petitioners herein, the heirs of the late Arturo Reyes, filed their protest to respondent's petition before the DAR on the ground that the subject property was sold by respondent's brother, Miguel R. Socco, in favor of their father, Arturo Reyes, as evidenced by the Contract to Sell, dated 5 September 1954, stipulating that:[6]

That I am one of the co-heirs of the Estate of the deceased Constancia Socco; and that I am to inherit as such a portion of her lot consisting of Four Hundred Square Meters (400) more or less located on the (sic) Zamora St., Municipality of Dinalupihan, Province of Bataan, bounded as follows:

x x x x

That for or in consideration of the sum of FIVE PESOS (P5.00) per square meter, hereby sell, convey and transfer by way of this conditional sale the said 400 sq.m. more or less unto Atty. Arturo C. Reyes, his heirs, administrator and assigns x x x. (Emphasis supplied.)

Petitioners averred that they took physical possession of the subject property in 1954 and had been uninterrupted

in their possession of the said property since then.

Legal Officer Brigida Pinlac of the DAR Bataan Provincial Agrarian Reform Office conducted an investigation, the results of which were contained in her Report/ Recommendation dated 15 April 1999. Other than recounting the afore-mentioned facts, Legal Officer Pinlac also made the following findings in her Report/Recommendation:[7]

Further investigation was conducted by the undersigned and based on the documentary evidence presented by both parties, the following facts were gathered: that the house of [the] Reyes family is adjacent to the landholding in question and portion of the subject property consisting of about 15 meters [were] occupied by the heirs of Arturo Reyes were a kitchen and bathroom [were] constructed therein; on the remaining portion a skeletal form made of hollow block[s] is erected and according to the heirs of late Arturo Reyes, this was constructed since the year (sic) 70's at their expense; that construction of the said skeletal building was not continued and left unfinished which according to the affidavit of Patricia Hipolito the Reyes family where (sic) prevented by Elena Socco in their attempt of occupancy of the subject landholding; (affidavit of Patricia Hipolito is hereto attached as Annex "F"); that Elena Socco cannot physically and personally occupy the subject property because of the skeletal building made by the Reyes family who have been requesting that they be paid for the cost of the construction and the same be demolished at the expense of Elena Socco; that according to Elena Socco, [she] is willing to waive her right on the portion where [the] kitchen and bathroom is (sic) constructed but not the whole of Lot [No.] 6-B adjudicated to her; that the Reyes family included the subject property to the sworn statement of value of real properties filed before the municipality of Dinalupihan, Bataan, copies of the documents are hereto attached as Annexes "G" and "H"; that likewise Elena Socco has been continuously and religiously paying the realty tax due on the said property.

In the end, Legal Officer Pinlac recommended the approval of respondent's petition for issuance of title over the subject property, ruling that respondent was qualified to own the subject property pursuant to Article 1091 of the New Civil Code.[8] Provincial Agrarian Reform Officer (PARO) Raynor Taroy concurred in the said recommendation in his Indorsement dated 22 April 1999.[9]

In an Order dated 15 September 1999, DAR Regional Director Nestor R. Acosta, however, dismissed respondent's petition for issuance of title over the subject property on the ground that respondent was not an actual tiller and had abandoned the said property for 40 years; hence, she had already renounced her right to recover the same.[10] The dispositive part of the Order reads:

- DISMISSING the claims of Elena Socco-Beltran, duly represented by Myrna Socco for lack of merit;
- ALLOCATING Lot No. 6-B under Psd-003-008565 with an area of 360 square meters, more or less, situated Zamora Street, Dinalupihan, Bataan, in favor of the heirs of Arturo Reyes.
- ORDERING the complainant to refrain from any act tending to disturb the peaceful possession of herein respondents.
- DIRECTING the MARO of Dinalupihan, Bataan to process the pertinent documents for the issuance of CLOA in favor of the heirs of Arturo Reyes.[11]

Respondent filed a Motion for Reconsideration of the foregoing Order, which was denied by DAR Regional Director Acosta in another Order dated 15 September 1999.[12]

Respondent then appealed to the Office of the DAR Secretary. In an Order, dated 9 November 2001, the DAR Secretary reversed the Decision of DAR Regional Director Acosta after finding that neither petitioners' predecessor-in-interest, Arturo Reyes, nor respondent was an actual occupant of the subject property. However, since it was respondent who applied to purchase the subject property, she was better qualified to own said

property as opposed to petitioners, who did not at all apply to purchase the same. Petitioners were further disqualified from purchasing the subject property because they were not landless. Finally, during the investigation of Legal Officer Pinlac, petitioners requested that respondent pay them the cost of the construction of the skeletal house they built on the subject property. This was construed by the DAR Secretary as a waiver by petitioners of their right over the subject property.[13] In the said Order, the DAR Secretary ordered that:

WHEREFORE, premises considered, the September 15, 1999 Order is hereby SET ASIDE and a new Order is hereby issued APPROVING the application to purchase Lot [No.] 6-B of Elena Socco-Beltran.[14]

Petitioners sought remedy from the Office of the President by appealing the 9 November 2001 Decision of the DAR Secretary. Their appeal was docketed as O.P. Case No. 02-A-007. On 30 June 2003, the Office of the President rendered its Decision denying petitioners' appeal and affirming the DAR Secretary's Decision.[15] The fallo of the Decision reads:

WHEREFORE, premises considered, judgment appealed from is AFFIRMED and the instant appeal DISMISSED.[16]

Petitioners' Motion for Reconsideration was likewise denied by the Office of the President in a Resolution dated 30 September 2004.[17] In the said Resolution, the Office of the President noted that petitioners failed to allege in their motion the date when they received the Decision dated 30 June 2003. Such date was material considering that the petitioners' Motion for Reconsideration was filed only on 14 April 2004, or almost nine months after the promulgation of the decision sought to be reconsidered. Thus, it ruled that petitioners' Motion for Reconsideration, filed beyond fifteen days from receipt of the decision to be reconsidered, rendered the said decision final and executory.

Consequently, petitioners filed an appeal before the Court of Appeals, docketed as CA-G.R. SP No. 87066. Pending the resolution of this case, the DAR already issued on 8 July 2005 a Certificate of Land Ownership Award (CLOA) over the subject property in favor of the respondent's niece and representative, Myrna Socco-Beltran.[18] Respondent passed away on 21 March 2001,[19] but the records do not ascertain the identity of her legal heirs and her legatees.

Acting on CA-G.R. SP No. 87066, the Court of Appeals subsequently promulgated its Decision, dated 31 January 2006, affirming the Decision dated 30 June 2003 of the Office of the President. It held that petitioners could not have been actual occupants of the subject property, since actual occupancy requires the positive act of occupying and tilling the land, not just the introduction of an unfinished skeletal structure thereon. The Contract to Sell on which petitioners based their claim over the subject property was executed by Miguel Socco, who was not the owner of the said property and, therefore, had no right to transfer the same. Accordingly, the Court of Appeals affirmed respondent's right over the subject property, which was derived from the original allocatees thereof.[20] The fallo of the said Decision reads:

WHEREFORE, premises considered, the instant PETITION FOR REVIEW is DISMISSED. Accordingly, the Decision dated 30 June 2003 and the Resolution dated 30 December 2004 both issued by the Office of the President are hereby AFFIRMED in toto.[21]

The Court of Appeals denied petitioners' Motion for Reconsideration of its Decision in a Resolution dated 16 August 2006.[22]

Hence, the present Petition, wherein petitioners raise the following issues:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE

FINDINGS OF THE OFFICE OF THE PRESIDENT THAT THE SUBJECT LOT IS VACANT AND THAT PETITIONERS ARE NOT ACTUAL OCCUPANTS THEREOF BY DENYING THE LATTER'S CLAIM THAT THEY HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE, NOTORIOUS AND AVDERSE POSSESSION THEREOF SINCE 1954 OR FOR MORE THAN THIRTY (30) YEARS.

II

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT HELD THAT PETITIONERS "CANNOT LEGALLY ACQUIRE THE SUBJECT PROPERTY AS THEY ARE NOT CONSIDERED LANDLESS AS EVIDENCED BY A TAX DECLARATION."

III

WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT "...WHATEVER RESERVATION WE HAVE OVER THE RIGHT OF MYRNA SOCCO TO SUCCEED WAS ALREADY SETTLED WHEN NO LESS THAN MIGUEL SOCCO (PREDECESSOR-IN INTEREST OF HEREIN PETITIONERS) EXECUTED HIS WAIVER OF RIGHT DATED APRIL 19, 2005 OVER THE SUBJECT PROPERTY IN FAVOR OF MYRNA SOCCO.

IV

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT DENIED PETITIONERS MOTION FOR NEW TRIAL THEREBY BRUSHING ASIDE THE FACT THAT MYRNA V. SOCCO-ARIZO GROSSLY MISREPRESENTED IN HER INFORMATION SHEET OF BENEFICIARIES AND APPLICATION TO PURCHASE LOT IN LANDED ESTATES THAT SHE IS A FILIPINO CITIZEN, WHEN IN TRUTH AND IN FACT, SHE IS ALREADY AN AMERICAN NATIONAL.[23]

The main issue in this case is whether or not petitioners have a better right to the subject property over the respondent. Petitioner's claim over the subject property is anchored on the Contract to Sell executed between Miguel Socco and Arturo Reyes on 5 September 1954. Petitioners additionally allege that they and their predecessor-in-interest, Arturo Reyes, have been in possession of the subject lot since 1954 for an uninterrupted period of more than 40 years.

The Court is unconvinced.

Petitioners cannot derive title to the subject property by virtue of the Contract to Sell. It was unmistakably stated in the Contract and made clear to both parties thereto that the vendor, Miguel R. Socco, was not yet the owner of the subject property and was merely expecting to inherit the same as his share as a co-heir of Constancia's estate.[24] It was also declared in the Contract itself that Miguel R. Socco's conveyance of the subject to the buyer, Arturo Reyes, was a conditional sale. It is, therefore, apparent that the sale of the subject property in favor of Arturo Reyes was conditioned upon the event that Miguel Socco would actually inherit and become the owner of the said property. Absent such occurrence, Miguel R. Socco never acquired ownership of the subject property which he could validly transfer to Arturo Reyes.

Under Article 1459 of the Civil Code on contracts of sale, "The thing must be licit and the vendor must have a right to transfer ownership thereof at the time it is delivered." The law specifically requires that the vendor must have ownership of the property at the time it is delivered. Petitioners claim that the property was constructively delivered to them in 1954 by virtue of the Contract to Sell. However, as already pointed out by this Court, it was explicit in the Contract itself that, at the time it was executed, Miguel R. Socco was not yet the owner of the property and was only expecting to inherit it. Hence, there was no valid sale from which ownership of the subject property could have transferred from Miguel Socco to Arturo Reyes. Without acquiring ownership of the subject property, Arturo Reyes also could not have conveyed the same to his heirs, herein petitioners.

Petitioners, nevertheless, insist that they physically occupied the subject lot for more than 30 years and, thus, they gained ownership of the property through acquisitive prescription, citing *Sandoval v. Insular Government* [25] and *San Miguel Corporation v. Court of Appeals*. [26]

In *Sandoval*, petitioners therein sought the enforcement of Section 54, paragraph 6 of Act No. 926, otherwise known as the Land Registration Act, which required -- for the issuance of a certificate of title to agricultural public lands -- the open, continuous, exclusive, and notorious possession and occupation of the same in good faith and under claim of ownership for more than ten years. After evaluating the evidence presented, consisting of the testimonies of several witnesses and proof that fences were constructed around the property, the Court in the afore-stated case denied the petition on the ground that petitioners failed to prove that they exercised acts of ownership or were in open, continuous, and peaceful possession of the whole land, and had caused it to be enclosed to the exclusion of other persons. It further decreed that whoever claims such possession shall exercise acts of dominion and ownership which cannot be mistaken for the momentary and accidental enjoyment of the property. [27]

In *San Miguel Corporation*, the Court reiterated the rule that the open, exclusive, and undisputed possession of alienable public land for the period prescribed by law creates the legal fiction whereby land ceases to be public land and is, therefore, private property. It stressed, however, that the occupation of the land for 30 years must be conclusively established. Thus, the evidence offered by petitioner therein - tax declarations, receipts, and the sole testimony of the applicant for registration, petitioner's predecessor-in-interest who claimed to have occupied the land before selling it to the petitioner - were considered insufficient to satisfy the quantum of proof required to establish the claim of possession required for acquiring alienable public land.[28]

As in the two aforecited cases, petitioners herein were unable to prove actual possession of the subject property for the period required by law. It was underscored in *San Miguel Corporation* that the open, continuous, exclusive, and notorious occupation of property for more than 30 years must be no less than conclusive, such quantum of proof being necessary to avoid the erroneous validation of actual fictitious claims of possession over the property that is being claimed.[29]

In the present case, the evidence presented by the petitioners falls short of being conclusive. Apart from their self-serving statement that they took possession of the subject property, the only proof offered to support their claim was a general statement made in the letter[30] dated 4 February 2002 of Barangay Captain Carlos Gapero, certifying that Arturo Reyes was the occupant of the subject property "since peace time and at present." The statement is rendered doubtful by the fact that as early as 1997, when respondent filed her petition for issuance of title before the DAR, Arturo Reyes had already died and was already represented by his heirs, petitioners herein.

Moreover, the certification given by Barangay Captain Gapero that Arturo Reyes occupied the premises for an unspecified period of time, i.e., since peace time until the present, cannot prevail over Legal Officer Pinlac's more particular findings in her Report/Recommendation. Legal Officer Pinlac reported that petitioners admitted that it was only in the 1970s that they built the skeletal structure found on the subject property. She also referred to the averments made by Patricia Hipolito in an Affidavit,[31] dated 26 February 1999, that the structure was left unfinished because respondent prevented petitioners from occupying the subject property. Such findings disprove petitioners' claims that their predecessor-in-interest, Arturo Reyes, had been in open, exclusive, and continuous possession of the property since 1954. The adverted findings were the result of Legal Officer Pinlac's investigation in the course of her official duties, of matters within her expertise which were later affirmed by the DAR Secretary, the Office of the President, and the Court of Appeals. The factual findings of such administrative officer, if supported by evidence, are entitled to great respect.[32]

In contrast, respondent's claim over the subject property is backed by sufficient evidence. Her predecessors-in-interest, the spouses Laquian, have been identified as the original allocatees who have fully paid for the subject property. The subject property was allocated to respondent in the extrajudicial settlement by the heirs of Constancia's estate. The document entitled "Extra-judicial Settlement of the Estate of the Deceased Constancia Socco" was not notarized and, as a private document, can only bind the parties thereto. However, its authenticity was never put into question, nor was its legality impugned. Moreover, executed in 1965 by the heirs of Constancia Socco, or more than 30 years ago, it is an ancient document which appears to be genuine on its face and therefore its authenticity must be upheld.[33] Respondent has continuously paid for the realty tax due on the subject property, a fact which, though not conclusive, served to strengthen her claim over the property.[34]

From the foregoing, it is only proper that respondent's claim over the subject property be upheld. This Court must, however, note that the Order of the DAR Secretary, dated 9 November 2001, which granted the petitioner's right to purchase the property, is flawed and may be assailed in the proper proceedings. Records show that the DAR affirmed that respondent's predecessors-in-interest, Marcelo Laquian and Constancia Socco, having been identified as the original allocatee, have fully paid for the subject property as provided under an agreement to sell. By the nature of a contract or agreement to sell, the title over the subject property is transferred to the vendee upon the full payment of the stipulated consideration. Upon the full payment of the purchase price, and absent any showing that the allocatee violated the conditions of the agreement, ownership of the subject land should be conferred upon the allocatee.[35] Since the extrajudicial partition transferring Constancia Socco's interest in the subject land to the respondent is valid, there is clearly no need for the respondent to purchase the subject property, despite the application for the purchase of the property erroneously filed by respondent. The only act which remains to be performed is the issuance of a title in the name of her legal heirs, now that she is deceased.

Moreover, the Court notes that the records have not clearly established the right of respondent's representative, Myrna Socco-Arizo, over the subject property. Thus, it is not clear to this Court why the DAR issued on 8 July 2005 a CLOA[36] over the subject property in favor of Myrna Socco-Arizo. Respondent's death does not automatically transmit her rights to the property to Myrna Socco-Beltran. Respondent only authorized Myrna Socco-Arizo, through a Special Power of Attorney[37] dated 10 March 1999, to represent her in the present case and to administer the subject property for her benefit. There is nothing in the Special Power of Attorney to the effect that Myrna Socco-Arizo can take over the subject property as owner thereof upon respondent's death. That Miguel V. Socco, respondent's only nephew, the son of the late Miguel R. Socco, and Myrna Socco-Arizo's brother, executed a waiver of his right to inherit from respondent, does not automatically mean that the subject property will go to Myrna Socco-Arizo, absent any proof that there is no other qualified heir to respondent's estate. Thus, this Decision does not in any way confirm the issuance of the CLOA in favor of Myrna Socco-Arizo, which may be assailed in appropriate proceedings.

IN VIEW OF THE FOREGOING, the instant Petition is DENIED. The assailed Decision of the Court of Appeals in CA-G.R. SP No. 87066, promulgated on 31 January 2006, is AFFIRMED with MODIFICATION. This Court withholds the confirmation of the validity of title over the subject property in the name of Myrna Socco-Arizo pending determination of respondent's legal heirs in appropriate proceedings. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Arturo D. Brion (now an Associate Justice of the Supreme Court) and Mariflor Punzalan Castillo, concurring. Rollo, pp. 32-40.

[2] Penned by Senior Deputy Executive Secretary Waldo Q. Flores. Rollo , pp. 81-82.

[3] Records, p. 113.

[4] Rollo , pp. 55-58.

[5] Records, p. 26.

[6] Rollo, p. 54.

[7] Records, pp. 112-113.

[8] Id. at 112. Art. 1091 of the Civil Code provides that:

Art. 1091. A partition legally made confers upon each heir the exclusive ownership of the property adjudicated to him.

[9] Id. at 114.

[10] Rollo, pp. 59-61.

[11] Id. at 60-61.

[12] Id. at 65-66.

[13] CA rollo, pp. 42-46.

[14] Id. at 46.

[15] Rollo, pp. 81-82.

[16] Id. at 82.

[17] Id. at 86-88.

[18] CA rollo, pp. 153, 160-161.

[19] Id. at 64.

[20] Rollo, pp. 36-38.

[21] Id. at 40.

[22] Id. at 41-43.

[23] Id. at 16.

[24] In the Contract To Sell, Miguel R. Socco states that, "That I am one of the co-heirs of the Estate of the deceased Constancia Socco; and that I am to inherit as such a portion of her lot consisting of Four Hundred Square Meters (400) more or less located on the (sic) Zamora St., Municipality of Dinalupihan, Province of Bataan." (Rollo, p. 54.)

[25] 12 Phil. 648 (1909).

[26] G.R. No. 57667, 28 May 1990, 185 SCRA 722.

[27] Sandoval v. Insular Government, *supra* note 25 at 654-656.

[28] San Miguel Corporation v. Court of Appeals, *supra* note 26 at 724-726.

[29] Id.

[30] Rollo, p. 117.

[31] Records, p. 105.

[32] Spouses Calvo v. Spouses Vergara, 423 Phil. 939, 947 (2001); Dulos Realty and Development Corporation v. Court of Appeals, 422 Phil. 292, 304 (2001); Advincula v. Dican, G.R. No. 162403, 16 May 2005, 458 SCRA 696, 712; Balbastro v. Junio, G.R. No. 154678, 17 July 2007, 527 SCRA 680, 693.

[33] Sec. 22, Rule 132 of the Revised Rules of Court states that:

SEC. 22. How genuineness of handwriting proved. - The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he has seen the person write, or has seen writing purporting to be his upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person. Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. (Manongsong v. Estimio, 452 Phil. 862, 878 [2003].)

[34] Records, p. 112.

[35] Spouses Tuazon v. Hon. Garilao, 415 Phil. 62, 69 and 72 (2001).

[36] CA rollo, pp. 160-161.

[37] Records, p. 100.

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