HEIRS OF JUANITA PADILLA, REPRESENTED BY CLAUDIO PADILLA, PETITIONERS, VS. DOMINADOR MAGDUA, RESPONDENT.

G.R. No. 176858. September 15, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review on certiorari[1] assailing the Orders dated 8 September 2006[2] and 13 February 2007[3] of the Regional Trial Court (RTC) of Tacloban City, Branch 34, in Civil Case No. 2001-10-161.

The Facts

Juanita Padilla (Juanita), the mother of petitioners, owned a piece of land located in San Roque, Tanauan, Leyte. After Juanita's death on 23 March 1989, petitioners, as legal heirs of Juanita, sought to have the land partitioned. Petitioners sent word to their eldest brother Ricardo Bahia (Ricardo) regarding their plans for the partition of the land. In a letter dated 5 June 1998 written by Ricardo addressed to them, petitioners were surprised to find out that Ricardo had declared the land for himself, prejudicing their rights as co-heirs. It was then discovered that Juanita had allegedly executed a notarized Affidavit of Transfer of Real Property[4] (Affidavit) in favor of Ricardo on 4 June 1966 making him the sole owner of the land. The records do not show that the land was registered under the Torrens system.

On 26 October 2001, petitioners filed an action with the RTC of Tacloban City, Branch 34, for recovery of ownership, possession, partition and damages. Petitioners sought to declare void the sale of the land by Ricardo's daughters, Josephine Bahia and Virginia Bahia-Abas, to respondent Dominador Magdua (Dominador). The sale was made during the lifetime of Ricardo.

Petitioners alleged that Ricardo, through misrepresentation, had the land transferred in his name without the consent and knowledge of his co-heirs. Petitioners also stated that prior to 1966, Ricardo had a house constructed on the land. However, when Ricardo and his wife Zosima separated, Ricardo left for Inasuyan, Kawayan, Biliran and the house was leased to third parties.

Petitioners further alleged that the signature of Juanita in the Affidavit is highly questionable because on 15 May 1978 Juanita executed a written instrument stating that she would be leaving behind to her children the land which she had inherited from her parents.

Dominador filed a motion to dismiss on the ground of lack of jurisdiction since the assessed value of the land was within the jurisdiction of the Municipal Trial Court of Tanauan, Leyte.

In an Order dated 20 February 2006,[5] the RTC dismissed the case for lack of jurisdiction. The RTC explained that the assessed value of the land in the amount of P590.00 was less than the amount cognizable by the RTC to acquire jurisdiction over the case.[6]

Petitioners filed a motion for reconsideration. Petitioners argued that the action was not merely for recovery of ownership and possession, partition and damages but also for annulment of deed of sale. Since actions to annul contracts are actions beyond pecuniary estimation, the case was well within the jurisdiction of the RTC.

Dominador filed another motion to dismiss on the ground of prescription.

In an Order dated 8 September 2006, the RTC reconsidered its previous stand and took cognizance of the case. Nonetheless, the RTC denied the motion for reconsideration and dismissed the case on the ground of prescription pursuant to Section 1, Rule 9 of the Rules of Court. The RTC ruled that the case was filed only in 2001 or more than 30 years since the Affidavit was executed in 1966. The RTC explained that while the right of an heir to his inheritance is imprescriptible, yet when one of the co-heirs appropriates the property as his own to the exclusion of all other heirs, then prescription can set in. The RTC added that since prescription had set in to question the transfer of the land under the Affidavit, it would seem logical that no action could also be taken against the deed of sale executed by Ricardo's daughters in favor of Dominador. The dispositive portion of the order states:

> WHEREFORE, premises considered, the order of the Court is reconsidered in so far as the pronouncement of the Court that it has no jurisdiction over the nature of the action. The dismissal of the action, however, is maintained not by reason of lack of jurisdiction but by reason of prescription.
>
> SO ORDERED.[7]

Petitioners filed another motion for reconsideration which the RTC denied in an Order dated 13 February 2007 since petitioners raised no new issue.

Hence, this petition.

The Issue

The main issue is whether the present action is already barred by prescription.

The Court's Ruling

Petitioners submit that the RTC erred in dismissing the complaint on the ground of prescription. Petitioners insist that the Affidavit executed in 1966 does not conform with the requirement of sufficient repudiation of co-ownership by Ricardo against his co-heirs in accordance with Article 494 of the Civil Code. Petitioners assert that the Affidavit became part of public records only because it was kept by the Provincial Assessor's office for real property tax declaration purposes. However, such cannot be contemplated by law as a record or registration affecting real properties. Petitioners insist that the Affidavit is not an act of appropriation sufficient to be deemed as constructive notice to an adverse claim of ownership absent a clear showing that petitioners, as co-heirs, were notified or had knowledge of the Affidavit issued by their mother in Ricardo's favor.

Respondent Dominador, on the other hand, maintains that Juanita, during her lifetime, never renounced her signature on the Affidavit or interposed objections to Ricardo's possession of the land, which was open, absolute and in the concept of an owner. Dominador contends that the alleged written instrument dated 15 May 1978 executed by Juanita years before she died was only made known lately and conveys the possibility of being fabricated. Dominador adds that the alleged `highly questionable signature' of Juanita on the Affidavit was only made an issue after 35 years from the date of the transfer in 1966 until the filing of the case in 2001. As a buyer in good faith, Dominador invokes the defense of acquisitive prescription against petitioners.

At the outset, only questions of law may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court. The factual findings of the lower courts are final and conclusive and may not be reviewed on appeal except under any of the following circumstances: (1) the conclusion is grounded on speculations, surmises or

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conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[8]

We find that the conclusion of the RTC in dismissing the case on the ground of prescription based solely on the Affidavit executed by Juanita in favor of Ricardo, the alleged seller of the property from whom Dominador asserts his ownership, is speculative. Thus, a review of the case is necessary.

Here, the RTC granted the motion to dismiss filed by Dominador based on Section 1, Rule 9 of the Rules of Court which states:

> Section 1. Defenses and objections not pleaded. - Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the case. (Emphasis supplied)

The RTC explained that prescription had already set in since the Affidavit was executed on 31 May 1966 and petitioners filed the present case only on 26 October 2001, a lapse of more than 30 years. No action could be taken against the deed of sale made in favor of Dominador without assailing the Affidavit, and the action to question the Affidavit had already prescribed.

After a perusal of the records, we find that the RTC incorrectly relied on the Affidavit alone in order to dismiss the case without considering petitioners' evidence. The facts show that the land was sold to Dominador by Ricardo's daughters, namely Josephine Bahia and Virginia Bahia-Abas, during the lifetime of Ricardo. However, the alleged deed of sale was not presented as evidence and neither was it shown that Ricardo's daughters had any authority from Ricardo to dispose of the land. No cogent evidence was ever presented that Ricardo gave his consent to, acquiesced in, or ratified the sale made by his daughters to Dominador. In its 8 September 2006 Order, the RTC hastily concluded that Ricardo's daughters had legal personality to sell the property:

> On the allegation of the plaintiffs (petitioners) that Josephine Bahia and Virginia Bahia-Abas had no legal personality or right to [sell] the subject property is of no moment in this case. It should be Ricardo Bahia who has a cause of action against [his] daughters and not the herein plaintiffs. After all, Ricardo Bahia might have already consented to or ratified the alleged deed of sale.[9]

Also, aside from the Affidavit, Dominador did not present any proof to show that Ricardo's possession of the land had been open, continuous and exclusive for more than 30 years in order to establish extraordinary acquisitive prescription.[10] Dominador merely assumed that Ricardo had been in possession of the land for 30 years based on the Affidavit submitted to the RTC. The petitioners, on the other hand, in their pleading filed with the RTC for recovery of ownership, possession, partition and damages, alleged that Ricardo left the land after he separated from his wife sometime after 1966 and moved to another place. The records do not mention, however, whether Ricardo had any intention to go back to the land or whether Ricardo's family ever lived there.

Further, Dominador failed to show that Ricardo had the land declared in his name for taxation purposes from 1966 after the Affidavit was executed until 2001 when the case was filed. Although a tax declaration does not prove ownership, it is evidence of claim to possession of the land.

Moreover, Ricardo and petitioners are co-heirs or co-owners of the land. Co-heirs or co-owners cannot acquire by acquisitive prescription the share of the other co-heirs or co-owners absent a clear repudiation of the co-ownership, as expressed in Article 494 of the Civil Code which states:

> Art. 494. x x x No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs as long as he expressly or impliedly recognizes the co-ownership.

Since possession of co-owners is like that of a trustee, in order that a co-owner's possession may be deemed adverse to the cestui que trust or other co-owners, the following requisites must concur: (1) that he has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust or other co-owners, (2) that such positive acts of repudiation have been made known to the cestui que trust or other co-owners, and (3) that the evidence thereon must be clear and convincing.[11]

In the present case, all three requisites have been met. After Juanita's death in 1989, petitioners sought for the partition of their mother's land. The heirs, including Ricardo, were notified about the plan. Ricardo, through a letter dated 5 June 1998, notified petitioners, as his co-heirs, that he adjudicated the land solely for himself. Accordingly, Ricardo's interest in the land had now become adverse to the claim of his co-heirs after repudiating their claim of entitlement to the land. In Generosa v. Prangan-Valera,[12] we held that in order that title may prescribe in favor of one of the co-owners, it must be clearly shown that he had repudiated the claims of the others, and that they were apprised of his claim of adverse and exclusive ownership, before the prescriptive period begins to run.

However, in the present case, the prescriptive period began to run only from 5 June 1998, the date petitioners received notice of Ricardo's repudiation of their claims to the land. Since petitioners filed an action for recovery of ownership and possession, partition and damages with the RTC on 26 October 2001, only a mere three years had lapsed. This three-year period falls short of the 10-year or 30-year acquisitive prescription period required by law in order to be entitled to claim legal ownership over the land. Thus, Dominador cannot invoke acquisitive prescription.

Further, Dominador's argument that prescription began to commence in 1966, after the Affidavit was executed, is erroneous. Dominador merely relied on the Affidavit submitted to the RTC that Ricardo had been in possession of the land for more than 30 years. Dominador did not submit any other corroborative evidence to establish Ricardo's alleged possession since 1966. In Heirs of Maningding v. Court of Appeals,[13] we held that the evidence relative to the possession, as a fact, upon which the alleged prescription is based, must be clear, complete and conclusive in order to establish the prescription. Here, Dominador failed to present any other competent evidence to prove the alleged extraordinary acquisitive prescription of Ricardo over the land. Since the property is an unregistered land, Dominador bought the land at his own risk, being aware as buyer that no title had been issued over the land. As a consequence, Dominador is not afforded protection unless he can manifestly prove his legal entitlement to his claim.

With regard to the issue of the jurisdiction of the RTC, we hold that the RTC did not err in taking cognizance of the case.

Under Section 1 of Republic Act No. 7691 (RA 7691),[14] amending Batas Pambansa Blg. 129, the RTC shall exercise exclusive jurisdiction on the following actions:

> Section 1. Section 19 of Batas Pambansa Blg. 129, otherwise known as the "Judiciary Reorganization Act of 1980", is hereby amended to read as follows:
>
> "Sec. 19. Jurisdiction in civil cases. - Regional Trial Courts shall exercise exclusive original jurisdiction.

> "(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
>
> "(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty Thousand Pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty Thousand Pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts; x x x

On the other hand, Section 3 of RA 7691 expanded the jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts over all civil actions which involve title to or possession of real property, or any interest, outside Metro Manila where the assessed value does not exceed Twenty thousand pesos (P20,000.00). The provision states:

> Section 3. Section 33 of the same law is hereby amended to read as follows:
>
> "Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases. - Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Trial Circuit Trial Courts shall exercise:
>
> x x x
>
> "(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots."

In the present case, the records show that the assessed value of the land was P590.00 according to the Declaration of Property as of 23 March 2000 filed with the RTC. Based on the value alone, being way below P20,000.00, the MTC has jurisdiction over the case. However, petitioners argued that the action was not merely for recovery of ownership and possession, partition and damages but also for annulment of deed of sale. Since annulment of contracts are actions incapable of pecuniary estimation, the RTC has jurisdiction over the case.[15]

Petitioners are correct. In Singson v. Isabela Sawmill,[16] we held that:

> In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable by courts of first instance (now Regional Trial Courts).

When petitioners filed the action with the RTC they sought to recover ownership and possession of the land by questioning (1) the due execution and authenticity of the Affidavit executed by Juanita in favor of Ricardo which caused Ricardo to be the sole owner of the land to the exclusion of petitioners who also claim to be legal heirs and entitled to the land, and (2) the validity of the deed of sale executed between Ricardo's daughters and Dominador. Since the principal action sought here is something other than the recovery of a sum of money, the action is incapable of pecuniary estimation and thus cognizable by the RTC. Well-entrenched is the rule that jurisdiction over the subject matter of a case is conferred by law and is determined by the allegations in the complaint and the

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character of the relief sought, irrespective of whether the party is entitled to all or some of the claims asserted.[17]

In sum, we find that the Affidavit, as the principal evidence relied upon by the RTC to dismiss the case on the ground of prescription, insufficiently established Dominador's rightful claim of ownership to the land. Thus, we direct the RTC to try the case on the merits to determine who among the parties are legally entitled to the land.

WHEREFORE, we GRANT the petition. We REVERSE AND SET ASIDE the Orders dated 8 September 2006 and 13 February 2007 of the Regional Trial Court of Tacloban City, Branch 34 in Civil Case No. 2001-10-161.

SO ORDERED.

Velasco, Jr.,[*] Peralta, Bersamin,[**] and Abad, JJ., concur.

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[*] Designated additional member per Special Order No. 883 dated 1 September 2010.

[**] Designated additional member per Special Order No. 886 dated 1 September 2010.

[1] Under Rule 45 of the 1997 Revised Rules of Civil Procedure.

[2] Id. at 19-20.

[3] Rollo, pp. 17-18. Penned by Presiding Judge Frisco T. Lilagan.

[4] Id. at 30-31.

[5] Id. at 42.

[6] See Declaration of Property as of 23 March 2000, id. at 28-29.

[7] Id. at 20.

[8] International Container Terminal Services, Inc. v. FGU Insurance Corporation, G.R. No. 161539, 27 June 2008, 556 SCRA 194.

[9] Rollo, p. 20.

[10] See Article 1137 of the Civil Code.

[11] Salvador v. Court of Appeals, 313 Phil. 36 (1995).

[12] G.R. No. 166521, 31 August 2006, 500 SCRA 620, citing Pangan v. Court of Appeals, 248 Phil. 601 (1988); Jardin v. Hallasgo, 202 Phil. 858 (1982); Cortes v. Oliva, 33 Phil. 480 (1916).

[13] 342 Phil. 567 (1997).

[14] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980." Approved on 25 March 1994.

[15] Spouses de Leon v. Court of Appeals, 350 Phil. 535 (1998).

[16] 177 Phil. 575 (1979), reiterated in Russell v. Vestil, 364 Phil. 392 (1999) and Social Security System v. Atlantic Gulf and Pacific Company of Manila, Inc., G.R. No. 175952, 30 April 2008, 553 SCRA 677.

[17] Radio Communications of the Philippines v. Court of Appeals, 435 Phil. 62 (2002).

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