

CRISPIN DICHOSO, JR., EVELYN DICHOSO VALDEZ, AND ROSEMARIE DICHOSO PE BENITO, PETITIONERS, vs. PATROCINIO L. MARCOS, RESPONDENT.

G.R. No. 180282. April 11, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to reverse and set aside the Court of Appeals (CA) Decision[1] dated January 31, 2007 and Resolution[2] dated October 23, 2007 in CA-G.R. CV No. 85471. The assailed Decision reversed and set aside the July 15, 2005 decision[3] of the Regional Trial Court (RTC) of Laoag City, Branch 14, in Civil Case No. 12581-14; while the assailed Resolution denied the Motion for Reconsideration filed by petitioners Crispin Dichoso, Jr., Evelyn Dichoso Valdez, and Rosemarie Dichoso Pe Benito.

The facts of the case, as culled from the records, are as follows:

On August 2, 2002, petitioners filed a Complaint for Easement of Right of Way[4] against respondent Patrocinio L. Marcos. In their complaint, petitioners alleged that they are the owners of Lot No. 21553 of the Cadastral Survey of Laoag City, covered by Transfer Certificate of Title No. T-31219; while respondent is the owner of Lot No. 1. As petitioners had no access to a public road to and from their property, they claimed to have used a portion of Lot No. 1 in accessing the road since 1970. Respondent, however, blocked the passageway with piles of sand. Though petitioners have been granted another passageway by the spouses Benjamin and Sylvia Arce (Spouses Arce), the owners of another adjacent lot, designated as Lot No. 21559-B, the former instituted the complaint before the RTC and prayed that:

WHEREFORE, it is respectfully prayed of this Honorable Court that judgment be rendered:

1. Granting the plaintiffs['] right of way over an area of 54 square meters more or less of Lot 01 by paying the defendant the amount of P54,000.00, and that the right [of] way be annotated on defendant's title;
2. Ordering the defendant to pay the plaintiffs the sum of P30,000.00 as damages for attorney's fees and costs of suit;

Other reliefs, just and equitable under the premises, are likewise sought.[5]

Instead of filing an Answer, respondent moved for the dismissal[6] of the complaint on the ground of lack of cause of action and noncompliance with the requisite certificate of non-forum shopping.

During the hearing on respondent's motion to dismiss, the parties agreed that an ocular inspection of the subject properties be conducted. After the inspection, the RTC directed the parties to submit their respective position papers.

In a resolution[7] dated May 12, 2004, the RTC denied respondent's motion to dismiss and required the latter to

answer petitioners' complaint.

In his Answer,[8] respondent denied that he allowed anybody to use Lot No. 1 as passageway. He stated that petitioners' claim of right of way is only due to expediency and not necessity. He also maintained that there is an existing easement of right of way available to petitioners granted by the Spouses Arce. Thus, there is no need to establish another easement over respondent's property.

In an Order[9] dated July 6, 2005, the RTC declared that respondent's answer failed to tender an issue, and opted to render judgment on the pleadings and thus deemed the case submitted for decision.

On July 15, 2005, the RTC rendered a decision[10] in favor of petitioners, the dispositive portion of which reads, as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered, as follows:

1.granting plaintiffs a right of way over an area of 54 square meters more or less over Lot 01 owned by defendant Patrocinio L. [Marcos] appearing in the Laoag City City Assessor's sketch (Annex A) found on page 28 of the records of the case;

2.ordering plaintiffs to pay defendant the amount of P54,000.00 as proper indemnity; and

3.ordering the Register of Deeds of Laoag City to duly annotate this right of way on defendant's title to the property.

SO ORDERED.[11]

The RTC found that petitioners adequately established the requisites to justify an easement of right of way in accordance with Articles 649 and 650 of the Civil Code. The trial court likewise declared petitioners in good faith as they expressed their willingness to pay proper indemnity.[12]

On appeal, the CA reversed and set aside the RTC decision and consequently dismissed petitioners' complaint. Considering that a right of way had already been granted by the (other) servient estate, designated as Lot No. 21559-B and owned by the Spouses Arce, the appellate court concluded that there is no need to establish an easement over respondent's property. The CA explained that, while the alternative route through the property of the Spouses Arce is longer and circuitous, said access road is adequate. It emphasized that the convenience of the dominant estate is never the gauge for the grant of compulsory right of way. Thus, the opening of another passageway is unjustified.[13]

Aggrieved, petitioners come before this Court, raising the following issues:

I.

CAN PETITIONERS BE ENTITLED TO A GRANT OF A LEGAL EASEMENT OF RIGHT OF WAY FROM THEIR LANDLOCKED PROPERTY THROUGH THE PROPERTY OF PRIVATE RESPONDENT WHICH IS THE SHORTEST ROUTE IN GOING TO AND FROM THEIR PROPERTY TO THE PUBLIC STREET AND WHERE THEY USED TO PASS?

II.

CAN RESPONDENT REFUSE TO GRANT A RIGHT OF WAY ON THE DESIRED PASSAGEWAY WHICH HE CLOSED SINCE THERE IS ANOTHER PASSAGEWAY WHICH IS MORE CIRCUITOUS AND BURDENSOME AND IS BELATEDLY OFFERED UNTO PETITIONERS?

III.

CAN PETITIONERS BE COMPELLED TO AVAIL OF A LEGAL EASEMENT OF RIGHT OF WAY THROUGH THE PROPERTY OF ARCE WHICH WAS BELATEDLY OFFERED BUT HAS BEEN FORECLOSED BY THE BANK AND WHEREIN THE LATTER IS NOT A PARTY TO THE CASE?[14]

The petition is without merit.

It is already a well-settled rule that the jurisdiction of this Court in cases brought before it from the CA by virtue of Rule 45 of the Rules of Court is limited to reviewing errors of law. Findings of fact of the CA are conclusive upon this Court. There are, however, recognized exceptions to the foregoing rule, namely:

- (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 fact 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 those of 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; and
- (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[15]

The present case falls under the 7th exception, as the RTC and the CA arrived at conflicting findings of fact and conclusions of law. The conferment of a legal easement of right of way is governed by Articles 649 and 650 of the Civil Code, quoted below for easy reference:[16]

Article 649. The owner, or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after payment of the proper indemnity.

Should this easement be established in such a manner that its use may be continuous for all the needs of the dominant estate, establishing a permanent passage, the indemnity shall consist of the value of the land occupied and the amount of the damage caused to the servient estate.

In case the right of way is limited to the necessary passage for the cultivation of the estate surrounded by others and for the gathering of its crops through the servient estate without a permanent way, the indemnity shall consist in the payment of the damage caused by such encumbrance. This easement is not compulsory if the isolation of the immovable is due to the proprietor's own acts.

Article 650. The easement of right of way shall be established at the point least prejudicial to the servient estate, and, insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest.

To be entitled to an easement of right of way, the following requisites should be met:

- 1.The dominant estate is surrounded by other immovables and has no adequate outlet to a public highway;
- 2.There is payment of proper indemnity;
- 3.The isolation is not due to the acts of the proprietor of the dominant estate; and
- 4.The right of way claimed is at the point least prejudicial to the servient estate; and insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest.[17]

Petitioners may be correct in the theoretical reading of Articles 649 and 650 of the Civil Code, but they nevertheless failed to show sufficient factual evidence to satisfy the above-enumerated requirements.[18]

It must be stressed that, by its very nature, and when considered with reference to the obligations imposed on the servient estate, an easement involves an abnormal restriction on the property rights of the servient owner and is regarded as a charge or encumbrance on the servient estate. It is incumbent upon the owner of the dominant estate to establish by clear and convincing evidence the presence of all the preconditions before his claim for easement of right of way may be granted.[19] Petitioners failed in this regard.

Admittedly, petitioners had been granted a right of way through the other adjacent lot owned by the Spouses Arce. In fact, other lot owners use the said outlet in going to and coming from the public highway. Clearly, there is an existing outlet to and from the public road.

However, petitioners claim that the outlet is longer and circuitous, and they have to pass through other lots owned by different owners before they could get to the highway. We find petitioners' concept of what is "adequate outlet" a complete disregard of the well-entrenched doctrine that in order to justify the imposition of an easement of right of way, there must be real, not fictitious or artificial, necessity for it. Mere convenience for the dominant estate is not what is required by law as the basis of setting up a compulsory easement. Even in the face of necessity, if it can be satisfied without imposing the easement, the same should not be imposed.[20]

We quote with approval the CA's observations in this wise:

As it shows, [petitioners] had been granted a right of way through the adjacent estate of Spouses Arce before the complaint below was even filed. [Respondent] alleged that this right of way is being used by the other estates which are similarly situated as [petitioners]. [Petitioners] do not dispute this fact. There is also a reason to believe that this right of way is Spouses Arce's outlet to a public road since their property, as it appears from the Sketch Map, is also surrounded by other estates. The fact that Spouses Arce are not insisting on a right of way through respondent's property, although an opening on the latter's property is undoubtedly the most direct and shortest distance to P. Gomez St. from the former's property, bolsters our conviction that they have adequate outlet to the highway which they are now likewise making available to [petitioners].[21]

The convenience of the dominant estate has never been the gauge for the grant of compulsory right of way. To be sure, the true standard for the grant of the legal right is "adequacy." Hence, when there is already an existing adequate outlet from the dominant estate to a public highway, as in this case, even when the said outlet, for one reason or another, be inconvenient, the need to open up another servitude is entirely unjustified.[22]

Thus, in *Cristobal v. CA*,[23] the Court disallowed the easement prayed for because an outlet already exists which is a path walk located at the left side of petitioners' property and which is connected to a private road about five hundred (500) meters long. The private road, in turn, leads to Ma. Elena Street, which is about 2.5 meters wide, and finally, to Visayas Avenue. This outlet was determined by the Court to be sufficient for the needs of the dominant estate.

Also in *Floro v. Llenado*,[24] we refused to impose a right of way over petitioner's property although private

respondent's alternative route was admittedly inconvenient because he had to traverse several ricelands and rice paddies belonging to different persons, not to mention that said passage is impassable during the rainy season.

And in *Ramos, Sr. v. Gatchalian Realty, Inc.*,^[25] this Court refused to grant the easement prayed for even if petitioner had to pass through lots belonging to other owners, as temporary ingress and egress, which lots were grassy, cogonal, and greatly inconvenient due to flood and mud because such grant would run counter to the prevailing jurisprudence that mere convenience for the dominant estate does not suffice to serve as basis for the easement.^[26]

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals Decision dated January 31, 2007 and Resolution dated October 23, 2007 in CA-G.R. CV No. 85471 are AFFIRMED.

SO ORDERED.

Carpio (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Conrado M. Vasquez, Jr. and Lucenito N. Tagle, concurring; rollo, pp. 34-46.

[2] *Id.* at 48-49.

[3] Penned by Judge Ramon A. Pacis; records, pp. 70-77.

[4] *Id.* at 1-3.

[5] *Id.* at 2.

[6] Embodied in a Motion to Dismiss dated October 16, 2002; *id.* at 11-14.

[7] *Id.* at 36-38.

[8] Rollo, pp. 62-64.

[9] Records, pp. 68-69.

[10] *Supra* note 3.

[11] *Id.* at 77.

[12] *Id.* at 76.

[13] Rollo, pp. 40-45.

[14] *Id.* at 211.

[15] *Hyatt Elevators and Escalators Corporation v. Cathedral Heights Building Complex Association, Inc.*, G.R. No. 173881, December 1, 2010.

[16] *Lee v. Carreon*, G.R. No. 149023, September 27, 2007, 534 SCRA 218, 221-222.

[17] *Quintanilla v. Abangan*, G.R. No. 160613, February 12, 2008, 544 SCRA 494, 499; *Cristobal v. CA*, 353 Phil. 318, 327 (1998); *Spouses Sta. Maria v. CA*, 349 Phil. 275, 283 (1998).

[18] *David-Chan v. CA*, 335 Phil. 1140, 1146 (1997).

[19] *Cristobal v. CA*, *supra* note 17, at 328.

[20] Id.

[21] Supra note 1, at 44.

[22] Costabella Corporation v. Court of Appeals, G.R. No. 80511, January 25, 1991, 193 SCRA 333, 341.

[23] Supra note 17.

[24] 314 Phil. 715 (1995).

[25] 238 Phil. 689 (1987).

[26] Cristobal v. CA, supra note 17, at 329.

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