

SALUD GEPIGA VDA. DE SOCO, GENARO G. SOCO, ELENO G. SOCO, FRANCISCO G. SOCO, TRINIDAD S. MENDEZ, FLORA S. HONRADA, ANITA S. ILUSTRISIMO, JULITA S. JAVIER, AND PATRICIO G. SOCO, ...

G.R. No. 188484. December 06, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

It appears that in an August 6, 1937 Decision[1] rendered by then Judge Alejo Labrador of the then Court of First Instance (CFI) of Cebu in Expediente No. G.L.R.O., Record No. 4030, ownership of a parcel of land located in Pacnaan, Mandaue City known as Lot No. 2393 containing 9,174 square meters of agricultural land (the property) was adjudicated to Telesfora Tikling (Telesfora), of which Salud Gepiga Vda. de Soco, et al. (petitioners) are heirs.

In a July 6, 1982 Order issued in Case No. 3, LRC Record No. 4030 by City Court of Mandaue, Branch II, Judge Lorenzo B. Barria, noting that, among other things, the Decision of Judge Labrador adjudicated the property to Telesfora, and that the decision had not been amended or set aside, albeit "as a consequence of . . . World War II, no decree of registration" was issued, directed the Land Registration Commission to issue a decree of registration of the property in favor of Telesfora.

Decree No. N-190930 was thus subsequently issued on November 26, 1985, and Original Certificate of Title (OCT) No. 0-701[2] covering the property was issued in the name of Telesfora on January 3, 1986. The OCT was later cancelled on April 3, 1986 by Transfer Certificate of Title (TCT) No. 22142[3] in the names of Telesfora's sons Pio ([1]/3 share) and Juan Soco ([2]/3 share). TCT No. 22142 was in turn cancelled on September 30, 1987 by TCT No. 24534[4] on September 30, 1987 in the name of Juan Soco, married to petitioner Salud.

After Juan Soco passed away on August 12, 1988, his heirs-herein petitioners extra-judicially settled his estate[5] consisting of several parcels of land in Cebu including the property and declared themselves as owners thereof, with the exception of petitioner Salud who waived any interest therein. TCT No. 24534 was later cancelled on January 12, 1995 and, in its stead, TCT No. 36051[6] was issued in the names of petitioners except Salud.

On December 7, 1995, Fermina Soco Vda. de Barbon (respondent) filed before the Regional Trial Court (RTC) of Mandaue City a complaint[7] for damages, reconveyance and attorney's fees against petitioners, for recovery of a 3,093 square meter portion of the property which she alleged represented her one-third ([1]/3) share thereof. Respondent claimed that she acquired [1]/3 portion of the property by inheritance in support of which she presented a Deed of Extra-Judicial Partition[8] dated May 15, 1962 executed by her and the children of Cornelio Soco (Cornelio), husband of Telesfora, namely Ignacia, Laureana, Pio, Pablo, and Juan (of which, it bears recalling, petitioners are heirs), wherein they agreed to partition the property. Under the Deed, the [2]/3 portion of the property was adjudicated to Cornelio's heirs.

The Court notes en passant that not one of respondent's alleged co-heirs in the 1962 Deed appears to have been still alive at the time she filed the complaint for reconveyance in 1995.

Respondent submitted Tax Declaration (TD) No. 06579[9] purportedly covering the property in the name of Basilio Soco (Basilio) as owner, with Telesfora's husband Cornelio as administrator.

Petitioners-heirs of Juan, in their Answer with Counterclaim,[10] denied any knowledge of the May 15, 1962 Deed of Extra-Judicial Partition, claiming that their predecessors-in-interest had been in actual, peaceful, open, continuous and adverse possession of the property.

At the trial, respondent presented, among other witnesses, Romeo Varona, a Document Examiner of the Philippine National Police (PNP) Crime Laboratory in Camp Cabahug, Cebu City who testified on alleged irregularities in the CFI August 6, 1937 Decision.

By Decision[11] of March 5, 2003, Branch 55 of the Mandaue RTC rendered judgment in favor of respondent, disposing as follows:

WHEREFORE, premises considered, judgment is rendered in favor of plaintiff Fermina Soco Vda. de Barbon, and against defendants Salud Gepiga vda. de Soco, Genaro G. Soco, Eleno G. Soco, Francisco G. Soco, Trinidad Soco-Mendez, Flora Soco-Honrada, Anita Soco-Ilustrisimo, Julita Soco-Javier and Patricio G. Soco, ordering the defendants to return to the plaintiff her land with an area of 3,053 sq. meters; declaring as null and void all titles and tax declarations in the name/s of the defendants covering said 3,053 sq. meters of land owned by the plaintiff; and condemning defendants, jointly and severally to pay plaintiff the following:

- a) P100,000.00 moral damages;
- b) P50,000.00 exemplary damages;
- c) P20,000.00 litigation expenses; and
- d) P50,000.00 attorney's fees.

SO ORDERED. (underscoring supplied)

Citing preponderance of evidence, the trial court held that the May 15, 1962 Deed of Extra-Judicial Partition clearly established respondent's successional rights to the property as one of the "two heirs" of Basilio Soco, the other being Telesfora's husband Cornelio. It noted that TD No. 06579[12] issued in "1948" covered the property in the name of Basilio Soco as "owner," and Cornelio as "administrator."

The trial court brushed aside petitioners' reliance on the August 6, 1937 Decision of the Cebu City CFI as legal basis of Telesfora's claim of ownership of the property, absent conclusive proof that she had continued to retain ownership of the land until it was partitioned on May 15, 1962.

The trial court relied heavily on the testimony of the Document Examiner, viz:

x x x x

FINDINGS:

Comparative examination and analysis of the questioned typewritten entries marked "Q-1" to "Q-3" inclusive reveal significant differences in typeface designs, defects and other individual characteristics.

CONCLUSION:

The typewritten entries in page 1 was (sic) prepared from another typewriter compared to page 23 and page 26 of the Court Decision dated 6 August 1937.

x x x x[13] (underscoring supplied)

It thus concluded that the CFI 1937 Decision was "spurious." It awarded damages and attorney's fees in favor of respondent, holding that the act of petitioners' predecessor-in-interest, Juan Soco, in securing title to the entire

property in the name of his mother Telesfora, which resulted in the issuance of OCT No. 0-701, amounted to bad faith as it was clearly intended to deprive respondent of her rightful ownership of [1]/3 of the property.

On appeal by petitioners, the Court of Appeals 20th Division, Cebu City, by Decision^[14] of January 30, 2009, affirmed the decision of the trial court. And by Resolution^[15] of May 28, 2009, it denied petitioners' motion for reconsideration.

Hence, the present petition.

Petitioners maintain that respondent never offered any proof that Basilio whose name appeared as "owner" in TD No. 06579 ever acquired it from Telesfora who was admittedly the original owner, hence, it was manifest error for the appellate court to validate respondent's ownership of [1]/3 of the property on the mere basis of said TD which, as indicated earlier, started in 1948. They stress that tax declarations – generally regarded as inferior proofs of ownership - cannot prevail over the CFI's August 6, 1937 Decision which was arrived at after due notice and hearing.

Petitioners further point out that respondent's payment of realty taxes should not be construed in her favor since taxes for the years 1975 up to 1994 were only paid on September 6, 1994.^[16]

Furthermore, petitioners contend that the appellate court's affirmance of the trial court's decision crediting the testimony of the Document Examiner – an ordinary witness, his being one such of the PNP Crime Laboratory notwithstanding, would set a dangerous precedent as it would overthrow the stability of judicial decisions rendered by courts of competent jurisdiction, like the 1937 CFI Decision which had long attained finality.

Finally, petitioners contend that even granting that there exist significant differences between the typewriter imprints on page 1 and those on pages 23 and 26 of the 1937 Decision, the same hardly justifies the conclusion that the decision is spurious, absent any standard which the Document Examiner could point to as the genuine typeset.^[17]

On the award of damages, petitioners contend at all events that, being mere forced heirs, they having inherited the property by operation of law, their predecessor-in-interest Juan should be held liable therefor since it was he who applied for the titling on June 23, 1982 of the property in the name of his mother Telesfora. They cite Article 2217 of the New Civil Code which allows the recovery of moral damages only where the same are the proximate result of the defendant's wrongful act or omission, an element sorely lacking in the present case.^[18]

In the main, the issue is whether respondent has proved her cause of action, i.e., whether the evidence she adduced bears out her claim of ownership of [1]/3 of the property. The Court holds not.

In civil cases, the party having the burden of proof must establish its claim or cause of action by preponderance of evidence,^[19] "evidence which is of greater weight, or more convincing than that which is offered in opposition to it."^[20]

Respondent relied chiefly on three documents in support of her claim – the May 15, 1962 Deed of Extra-Judicial Partition, the 1948 TD No. 06579 (listing Basilio as owner), and the document examiner's November 7, 2001 Questioned Document Report. Recall that respondent alleged that she acquired [1]/3 of the property as her share in inheritance from Basilio.

How Basilio became the owner of the property, there is no proof. Neither is there proof how respondent was an heir of Basilio nor how Juan is a cousin of respondent as she claims. ^[21] In fact, during her cross-examination, respondent failed to define, at the very least, the relationship of Cornelio (husband of Telesfora) to Basilio. Consider her following testimony:

COURT TO THE WITNESS:

Q: You testified that the property in question was left by Basilio Soco and administered by Cornelio Soco, as evidenced by tax declaration No. 06579, for the year 1948. How [is] this Cornelio Soco related to Basilio Soco?

FERMINA SOCO:

A: MAYBE they are brothers. I could not recall anymore. As far as I know the original owner of that land was Telesfora Tikling and this Cornelio Soco is the husband of Tikling.

Q: I would like to be clarified on the relationship between Basilio Soco and Cornelio Soco?

A: MAYBE they are brothers.

ATTY. ELIAS ESPINOZA (respondent's counsel):

I think your Honor there was a testimony of this witness during the direct that when this property was partitioned, Basilio and Cornelio were no longer around. In fact, the witnesses to the partition was (sic) the one mentioned in that document.

ATTY. CARLOS ALLAN CARDENAS (petitioners' counsel):

We object to that manifestation. That is feeding information to the witness, your Honor. When the witness awhile ago was asked by this Honorable Court what was the relation between Basilio and Cornelio her answer was that she cannot tell. And there was additional answer of the witness that what she remember (sic) was that the original owner of the land was Telesfora Tikling.

COURT:

The parents of the defendants were?

ATTY. ESPINOZA:

Juan Soco.

COURT:

Juan Soco and Cornelio Soco are brothers?

ATTY. ESPINOZA:

No. Cornelio Soco is the father of Juan Soco.

COURT TO THE WITNESS:

Q: So you cannot therefore tell this court the relationship between Cornelio and Basilio?

A: I do not know. [22] (emphasis, capitalization and underscoring supplied)

Being unable to even delineate the relationship between Basilio (in whose name the 1948 TD was printed) and Cornelio (the alleged administrator appearing in the said TD), or for that matter to explain her relationship to Cornelio, respondent's assertion of being a cousin to Cornelio's son Juan - predecessor-in-interest of petitioners is far from a recognized fact.

Respondent's failure to establish clear-cut blood ties to Cornelio whose wife Telesfora is, it bears repeating, admittedly the original owner of the property thus jeopardizes her claim as an heir to the property. Petitioners' submission that it was incumbent upon respondent to first prove that Basilio had acquired, and in what mode the

Court hastens to add, the property from Telesfora after it was awarded to her in 1937 thus assumes merit.

Petitioners' title to the property, upon the other hand, is rooted on the 1937 Decision of the Cebu CFI in Expediente No. 3, G.L.R.O. Record No. 4030 which awarded ownership thereof to their predecessor-in-interest's Juan's mother, Telesfora. The original copy of the said decision, consisting of 26 pages,[23] which petitioners later presented on sur-rebuttal, remains in the custody of Marites Holsapple, the Cebu City RTC's custodian of cadastral and civil case records for the Mandaue and Cebu Cadastre.[24] Despite attempts by respondent to cast doubts on the integrity of the 1937 Decision, its authenticity was, until respondent presented the Document Examiner in 2002, never challenged in more than half a century.

At all events, since the OCT in Telesfora's name was issued in 1986, the same had already become vested with indefeasibility considering that respondent's challenge to petitioners' title was lodged only in 1995.[25] The law permits an attack on the original torrens title only on the ground of fraud, within a period of one year from the date of issuance of the decree of registration by the Land Registration Commission.[26]

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals, dated January 30, 2009, is hereby REVERSED and SET ASIDE. Respondent Fermina Soco's complaint in Civil Case No. MAN-2565 before the RTC of Mandaue City, Br. 55 is DISMISSED.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Exhibits "3" to "3-A," records, pp. 201-203; Exhibits "15" to "15-Y" (sur-rebuttal), id. at 290-315.

[2] Id. at 26-29.

[3] Id. at 30-31.

[4] Id. at 32-33.

[5] Deed of Extrajudicial Settlement of Estate dated March 31, 1992, id., at 217-221.

[6] Exhibit "I," id. at 34-35.

[7] Id. at 1-10.

[8] Exhibit "B," a photocopy, id. at 13-14.

[9] Starting in the year 1948; Exhibit "A," id. at 11-12.

[10] Id. at 48-55.

[11] Id. at 364-379.

[12] Supra note 9.

[13] Exhibit "P," records, p. 271.

[14] Penned by Associate Justice Francisco P. Acosta with the concurrence of Associate Justices Amy Lazaro-Javier and Rodil V. Zalameda; CA rollo, pp. 135-146.

[15] Id. at 159-161.

[16] Rollo, pp. 34-37.

[17] Id. at 30-34.

[18] Id. at 25-29.

[19] Section 1, Rule 133, Revised Rules of Court.

[20] *New Testament Church of God v. Court of Appeals*, G.R. No. 102297, July 14, 1995, 246 SCRA 266, 269; citing *Republic v. Court of Appeals*, November 21, 1991, 204 SCRA 160, 168.

[21] TSN, October 3, 1996, p. 3.

[22] Id. at 28-30.

[23] Vide note 1.

[24] TSN, July 30, 2002, pp. 2-12.

[25] Section 32 of Presidential Decree No. 1529 otherwise known as the Property Registration Decree.

[26] *Agasen v. Court of Appeals*, G.R. No. 115508, February 15, 2000, 325 SCRA 504, 515.

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