

BALTAZAR IBOT, PETITIONER, VS. HEIRS OF FRANCISCO TAYCO, REPRESENTED BY FLORA TAYCO, WILLY TAYCO AND MERLYN T. BULANTE, RESPONDENTS.*G.R. No. 202950. April 06, 2015*

Ponente: REYES, J.

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This is a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Court, which seeks to annul and set aside the Decision[2] dated November 14, 2011 and Resolution[3] dated July 16, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 00377-MIN. The assailed decision reversed the Judgment[4] dated March 31, 2005 of the Regional Trial Court (RTC) of Midsayap, Cotabato, Branch 18, in Civil Case No. 99-028, which granted the reconveyance of Lot No. 299 to Flora Tayco, Willy Tayco and Merlyn Tayco Bulante (respondents) and not to Baltazar Ibot (petitioner).

Facts of the Case

The dispute centers on the ownership of a residential land denominated as Lot No. 299, Bsd-101505 situated at Poblacion 2, Pigcawayan, Province of Cotabato, measuring 536 square meters, more or less, and covered by Original Certificate of Title (OCT) No. P-62053.[5]

The respondents are the heirs of deceased Francisco Tayco (Francisco) who presently occupy Lot No. 299, while the petitioner is the registered owner of Lot No. 299 in whose name OCT No. P-62053 was issued by the Register of Deeds of the Province of Cotabato on October 23, 1997.[6]

On September 23, 1999, a complaint for reconveyance of real property, damages and attorney's fees was filed before the RTC by the respondents against the petitioner grounded on their claim as owners of Lot No. 299 because of their actual, continuous, exclusive and notorious possession thereof since 1964 through their predecessor-in-interest, Francisco.[7]

The respondents alleged that: in 1960, spouses Francisco and Flora Tayco (spouses Tayco) purchased Lot No. 299 from Amelita Ibot (Amelita) for a consideration of P1,200.00 which was set forth in a Deed of Sale that was prepared by an attorney's clerk named Fe Clamor;[8] Francisco commenced his Sales Application of Lot No. 299 with the Bureau of Lands (Bureau) but it was discontinued due to his sickness; Francisco lost the documents necessary for his sales application including the Deed of Sale;[9] their open, continuous, exclusive, and notorious possession since 1964 and the introduction of improvements on Lot No. 299 entitles them to its reconveyance as owners; and fraud attended the issuance of the petitioner's OCT in 1998.[10]

In his answer,[11] the petitioner denied the allegations and unequivocally declared that the respondents cannot become owners of Lot No. 299 because his predecessor-in-interest, Amelita, merely tolerated their occupation; that Calixta Tayco (Calixta), mother of Francisco, sought permission for them to be allowed to relocate their nipa hut on Lot No. 299 due to the construction of Pigcawayan's public market; that despite Francisco's marriage,

Amelita continuously allowed them to stay on the lot with his family;[12] that in 1997, Amelita ceded to him all her rights on Lot No. 299; that his Free Patent application to the Bureau was not fraudulent; that after complying with all legal requisites imposed by law, he was issued OCT No. P-62053 by the Register of Deeds, Province of Cotabato on October 23, 1997;[13] that the respondents were allowed to remain in Lot No. 299 despite the death of Calixta and Francisco; that upon learning about the respondents' sale of a portion of Lot No. 299 to Freddie Rizado, the petitioner formally demanded them to vacate Lot No. 299; that the respondents did not heed his demand for them to vacate; that on August 20, 1999, the petitioner filed a complaint for unlawful detainer against the respondents but it was dismissed due to lack of jurisdiction.[14]

During the pre-trial conference, both parties agreed to the statement of the issue as: "(w)hich prevails, defendant's title or plaintiff's occupation of the land since 1964 and up to the present?,"[15] as well as the following admissions, to wit:

1. The petitioner admitted that the respondents have been occupying Lot No. 299 since 1964 but he denied that he had never occupied the same for any given period of time and that all existing improvements were not all introduced by the respondents; and
2. The respondents admitted that the petitioner is the registered owner of Lot No. 299 and that he has been paying the taxes due on Lot No. 299. They, however, contest the regularity in the issuance of the petitioner's OCT.[16]

Trial on the merits then ensued.

Ruling of the RTC

On March 31, 2005, the RTC rendered Judgment[17] upholding the petitioner's ownership of the subject property, the decretal portion of which reads:

WHEREFORE, in the light of all the foregoing considerations, the court hereby renders judgment in favor of the [petitioner] and against the [respondents]:

1. Denying the petition for reconveyance and dismissing the instant action;
2. Ordering the [respondents] to turn over the peaceful possession of Lot No. 299, Bsd-10105, [OCT] No. P-62053, Register of Deeds of Cotabato unto and in favor of the defendant;
3. To remove all the structure that they have put up in the premises under pain of being removed at their own expense.
4. No pronouncement as to cost.

IT IS SO DECIDED.[18]

According to the RTC, the circumstances behind the issuance of the petitioner's certificate of title clearly established that he duly filed an application for registration of the property and complied with all the requirements of the law. On the contrary, the respondents failed to present any document evidencing the alleged transfer of rights from Amelita to the spouses Tayco in order to establish their claim of sale, and that what the respondents presented were nothing more than mere allegations.[19] The RTC further noted that the petitioner's OCT No. P-62053 was issued on October 23, 1997 while the respondents' complaint for reconveyance was filed only on September 23, 1999. Considering that more than a year had lapsed before the case was filed, the title had become indefeasible and can no longer be subject to review.[20]

On appeal, the CA reversed[21] the judgment of the RTC and the decretal portion of its decision reads:

WHEREFORE, the assailed Decision is hereby REVERSED and SET ASIDE.

Appellants, HEIRS OF FRANCISCO TAYCO, represented by FLORA TAYCO, WILLY TAYCO and MERLYN T. BULANTE, are hereby declared as the legal owners of Lot No. 299, Bsd-101505.

Appellee Baltazar Ibot, Jr. is ORDERED to RECONVEY the property described in Original Certificate of Title No. P-62053 in favor to [sic] appellants.

SO ORDERED.[22]

The CA ratiocinated that respondents' open, continuous, adverse and uninterrupted possession of Lot No. 299 for more than 30 years reckoned from 1964 remains uncontroverted while the Torrens title of the petitioner was noticeably obtained only in 1997. Also, the long inaction or passivity of the petitioner or Amelita in asserting rights over Lot No. 299 despite knowledge of the improvements introduced by the respondents precludes the petitioner from recovering the same.[23] The CA further stressed that land registration laws cannot give a person any better title than what he actually has.[24] The mere "[registration of a piece of land under the Torrens System does not create or vest title [to the registrant], because it is not a mode of acquiring ownership." [25] Thus, notwithstanding "the indefeasibility of the Torrens title, the registered owner may still be compelled to reconvey the registered property to its true owners." [26] Consequently, the decision of the RTC was reversed and set aside, and Lot No. 299 was ordered reconveyed to the respondents.

The petitioner filed a motion for reconsideration[27] but it was denied.[28]

Unsatisfied, the petitioner instituted the present appeal[29] predicated on the following issues:

I

WHETHER THE [CA] MISAPPREHENDED] THE FACTS IN NOT ASSESSING CONSENT GIVEN TO RESPONDENTS BY PETITIONER'S PREDECESSORS-IN-INTEREST TO STAY ON THE DISPUTED PROPERTY IN FAVOR OF THE PETITIONER IN DETERMINING THE [EXTRAORDINARY] PRESCRIPTION.

II

WHETHER THE [CA] ERRED IN NOT ASSESSING THE FINDING OF THE TRIAL COURT THAT RESPONDENTS, THEN PLAINTIFFS COULD NOT EVEN SHOW ANY SEMBLANCE OF FRAUD IN THE MANNER THE CERTIFICATE OF TITLE WAS ISSUED IN THE NAME OF THE DEFENDANT.

III

WHETHER THE [CA] ERRED IN APPLYING THE DOCTRINE IN "AZNAR BROTHERS REALTY COMPANY VERSUS AYING" AND "NAVAL VERSUS COURT OF APPEALS["] IN FAVOR OF THE RESPONDENTS.

IV

WHETHER PRESCRIPTION AND EQUITABLE LACHES HAD SET IN AGAINST THE PETITIONER TO WARRANT RECONVEYANCE OF THE DISPUTED PROPERTY TO RESPONDENTS.[30]

Foremost, it should be stressed that this Court is not a trier of facts. Only questions of law and not questions of fact may be raised in a petition for review on certiorari under Rule 45.[31] In the exercise of its power of review, the factual findings of the CA are conclusive and binding on this Court and it is not our function to re-evaluate evidence all over again. However, it is a recognized exception that when the CA's findings are incongruent to those of the RTC, as in this case, there is a need to review the records to determine which of them should be

preferred as more conformable to evidentiary facts.[32]

Here, the RTC and the CA made contrasting conclusions on the issue of ownership. Hence, such issue is now the subject of the Court's review.

To recapitulate, the respondents traced their claim of ownership of the subject property from the year 1960 when their parents, the spouses Tayco, allegedly purchased the lot from Amelita for P1,200.00. To support their claim of ownership over Lot No. 299, the respondents presented uncertified photocopies of Francisco's Miscellaneous Sales Application No. XII-12-94 dated September 8, 1986 and the Community of Environment and Natural Resources Office Appraisal Report dated April 9, 1987[33] and the explanation that their father Francisco lost the Deed of Sale and the other documents pertinent to his application as he would just normally insert them all at the back of his pants.[34]

To debunk the respondents' claim, the petitioner adduced certified copies of documents, such as: OCT No. P-62053 issued by the Office of the Register of Deeds, Province of Cotabato on October 23, 1997,[35] a tax declaration dated in 1998, his free patent application and Department of Environment and Natural Resources (DENR) order wherein Amelita requested for the rejection of her free application in favor of the petitioner. According to the petitioner, Lot No. 299 was registered in his name after Amelita, his aunt, transferred all her rights to him. Moreover, he argued that the respondents cannot become owners of the lot because their stay is merely tolerated by his aunt who consented to Calixta and Francisco's stay on the property in 1964. Thus, the respondents cannot become its owners by acquisitive prescription.

Ruling of the Court

The petition is impressed with merit.

Burden of proof in reconveyance cases

Generally, "in civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence. If the plaintiff claims a right granted or created by law, the same must be proven by competent evidence. The plaintiff must rely on the strength of his own evidence,"[36] "or evidence which is of greater weight or more convincing than that which is offered in opposition to it. Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's."[37] In an action for reconveyance, however, a party seeking it should establish not merely by a preponderance of evidence but by clear and convincing evidence that the land sought to be reconveyed is his.[38]

In the case at bar, the respondents failed to dispense their burden of proving by clear and convincing evidence that they are entitled to the reconveyance of Lot No. 299.

Requisites for the reconveyance of property

Article 434 of the Civil Code provides:

Art. 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

In order to successfully maintain an action to recover the ownership of a real property, the person who claims a better right to it must prove two things: first, the identity of the land claimed; and second, his title thereto.[39]

As to the first requisite, there is no doubt that the land sought to be reconveyed is Lot No. 299, a residential lot located at Pigcawayan, Province of Cotabato. As to the second requisite on title of ownership, the claims of the

parties conflict.

An evaluation of the assailed CA decision

A reading of the assailed CA decision shows that it recognized the respondents' failure to prove the sale between Amelita and Francisco. According to the CA, the exhibits that the respondents offered in evidence, i.e., Miscellaneous Sale Application and Appraisal Report signed by Land Inspector Geminiano Oliva, are not deeds of reconveyances or proofs of the alleged sale. The respondents, moreover, failed to prove that they have an open, continuous, adverse and uninterrupted possession of the subject property for more than 30 years, there being no document that would show that they, in the exercise of their claim as its owners, had and have been paying the realty tax due on the subject property. As consistently held, tax receipts are not an evidence of ownership but they are good indicia of possession in the concept of owner, for no one would ordinarily be paying taxes for a property not in his actual or at least constructive possession.[40]

Nonetheless, the CA confirmed the respondents' possession of the subject land for more than 30 years as uncontroverted due to the improvements they introduced over the subject land since 1964, such as buildings and concrete houses, among others. Applying the case of *Heirs of Dela Cruz v. CA*,^[41] the CA therefore concluded that such acts could mean a clear exercise of ownership by the respondents.

Such analysis is inaccurate. The case of *Dela Cruz* does not apply in this case because of the varying factual setting, to wit: (1) the respondents therein were able to prove the alleged sale to their predecessor-in-interest; and (2) the defendant failed to send a demand letter or any form of dissent to the plaintiff to assert his claim of ownership. Here, it is the reverse. The respondents failed to present any document to prove the alleged sale. Moreover, the petitioner was able to assert his claim of ownership not only by sending a letter demanding for the respondents to vacate the disputed property but he also filed an action for ejectment against them when his demand to vacate was unheeded.

The CA also cited the case of *Naval v. CA*^[42] to emphasize the principle that the registration of a parcel of land under the Torrens system does not vest or create ownership in favor of the registrant. It should be noted, however, that in *Naval*, there was a sale of an unregistered land to different buyers at different times unlike in the instant case. In *Naval*, the second buyer (who allegedly purchased the land in 1972) successfully had the disputed land titled in her name upon which she based her claim of ownership. However, in that case, there was a prior sale of the same unregistered land which was registered as early as 1969 coupled with the buyers' immediate possession thereof.

Here, the registration of Lot No. 299 was not preceded by a prior sale to the respondents' predecessor-in-interest. As above discussed, the respondents failed to substantiate their claim that the same land was sold to the late Francisco because the documents they presented in evidence did not prove the alleged sale. It can, therefore, be stated that the OCT issued in the name of the petitioner over Lot No. 299 cannot be assailed by the respondents considering that their claim of ownership has not been duly proved. Therefore, the case of *Naval* is also inapplicable.

Citing the case of *Aznar Brothers Realty Company v. Aying*,^[43] the CA also pointed out that a constructive implied trust was constituted in favor of the respondents in view of the fraud employed by the petitioner when he obtained title over Lot No. 299 by misrepresenting that he is in actual possession thereof at the time he applied for its registration. Contrary to the CA's disquisition, however, the Court finds that no implied trust was created between the petitioner and the respondents. In *Aznar*, there was determination of who among the heirs did not sign the deed of sale. Therefore, the Torrens title issued in the name of the buyer holds the same in trust for their benefit. Here, it is again worthy to stress that the respondents had nothing to support their claim of ownership over

that of the petitioner. Therefore, the petitioner, being a registered owner of the disputed lot, cannot be considered as a trustee in favor of the respondents as cestui que trust.

Proof of Tolerance

The petitioner, on the other hand, unequivocally dispensed his burden of proving that the respondents' occupation of Lot No. 299 was through the mere tolerance of his aunt Amelita. Tolerance must be shown by some overt act such as the permission accorded by the petitioner and his predecessors-in-interest to occupy the disputed property in order for it to be well-taken. Mere tolerance always carries with it "permission" and not merely silence or inaction for silence or inaction is negligence, not tolerance.[44] It must also be shown "that the supposed acts of tolerance have been present right from the very start of the possession - from entry to the property." [45]

To support his claim of ownership, the petitioner presented the following pieces of evidence, to wit: (1) OCT No. P-62053[46] dated October 23, 1997; (2) Tax Declaration No. 11-002-96-00778[47] dated in 1998; (3) demand letter[48] to vacate dated May 25, 1999; (4) Barangay Certification to file action;[49] (5) application[50] and notice[51] to file for Free Patent dated July 7, and 24, 1987, respectively; (6) the Order of the DENR[52] dated December 11, 1996 wherein Amelita requested for the rejection of her free patent application in favor of the petitioner; and the testimony of his aunt Amelita on how the respondents and their predecessors-in-interest started to occupy Lot No. 299 and her acquiescence to their occupation until she transferred all her rights over Lot No. 299 in favor of the petitioner. Hence, as compared to the evidence of the respondents, the evidence of the petitioner clearly and convincingly prove his exercise of ownership over the disputed property.

Prescinding from the foregoing, it is clear mere claim of ownership will not suffice. An action for reconveyance should be maintained by the true owner. It will not suffice that the respondents are in possession of the land subject thereof.[53] Thus, the scale of justice should tilt in favor of the petitioner and not the respondents.

WHEREFORE, in consideration of the foregoing premises, the Decision dated November 14, 2011 and Resolution dated July 16, 2012 of the Court of Appeals in CA-G.R. CV No. 00377-MIN are REVERSED and SET ASIDE. Accordingly, the Judgment dated March 31, 2005 of the Regional Trial Court of Midsayap, Cotabato, Branch 18, in Civil Case No. 99-028, is REINSTATED.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Mendoza,[*] and Jardeleza, JJ., concur.

July 10, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on April 6, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 10, 2015 at 2:20 p.m.

Very truly yours,
(SGD)WILFREDO V. LAPITAN
Division Clerk of Court

[*] Additional Member per Special Order No. 1966 dated March 30, 2015 vice Associate Justice Martin S.

Villarama, Jr.

[1] Rollo, pp. 4-36.

[2] Penned by Associate Justice Carmelita Salandanan-Manahan, with Associate Justices Edgardo T. Lloren and Zenaida T. Galapate Laguilles concurring; CA rollo, pp. 68-82.

[3] Id. at 117-118.

[4] Issued by Acting Presiding Judge Francisco G. Rabang, Jr.; records, pp. 219-223.

[5] CA rollo, p. 89.

[6] Rollo, pp. 7-8.

[7] Id. at 10.

[8] CA rollo, p. 91.

[9] Rollo, pp. 10-11.

[10] Id. at 12.

[11] Records, pp. 27-28.

[12] Rollo, pp. 8-9.

[13] Records, p. 219.

[14] Rollo, pp. 9-10.

[15] Records, p. 44.

[16] CA rollo, pp. 70-71.

[17] Records, pp. 219-223.

[18] Id. at 223.

[19] Id. at 220.

[20] Id. at 222.

[21] CA rollo, pp. 68-82.

[22] Id. at 81.

[23] Id. at 77.

[24] Id. at 79.

[25] Id., citing *Naval v. CA*, 518 Phil. 271, 282 (2006).

[26] Id., citing *Naval v. CA*, id. at 283.

[27] Id. at 103-111.

[28] Id. at 117-118.

[29] Rollo, pp. 4-36.

[30] Id. at 21-22.

[31] *Esguerra v. United Philippines Lines, Inc.*, G.R. No. 199932, July 3, 2013, 700 SCRA 687, 696.

[32] Id.

[33] Records, p. 9.

[34] Rollo, p. 11.

[35] Records, p. 187.

[36] *Copuyoc v. De Sola*, 535 Phil. 181, 193 (2006).

[37] *Delfin v. Billones*, 519 Phil. 720, 732 (2006).

[38] *VSD Realty & Development Corporation v. Uniwide Sales, Inc.*, G.R. No. 170677, July 31, 2013, 702 SCRA 597, 605.

[39] *Sampaco v. Lantud*, G.R. No. 163551, July 18, 2011, 654 SCRA 36, 50-51.

[40] *Lasquite, et al. v. Victoria Mills, Inc.*, 608 Phil. 418, 433 (2009).

[41] 358 Phil. 652 (1998).

[42] 518 Phil. 271 (2006).

[43] 497 Phil. 788 (2005).

[44] *Carbonilla v. Abiera*, G.R. No. 177637, July 26, 2010, 625 SCRA 461, 470.

[45] Id.

[46] Records, p. 187.

[47] Id. at 188.

[48] Id. at 190.

[49] Id. at 191.

[50] Id. at 193.

[51] Id. at 194.

[52] Id. at 196.

[53] Rollo, p. 53.

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