

CHRISTOPHER I. DALIDA,[1] PETITIONER, VS. CONCEPCION BOHOL--ZENONI,[1] RESPONDENT.*G.R. No. 214649. February 26, 2020*

Ponente: REYES, J. JR., J.

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This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court, dated November 7, 2014, assailing the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA G.R. CV No. 02980, respectively dated April 19, 2013 and August 12, 2014, which reversed the Decision dated October 31, 2008 of the Regional Trial Court (RTC) of Maasin City, Southern Leyte, Branch 24 in a case for partition, quieting of title and damages.

The Facts

The spouses Concordio and Melitona Dalida owned parcels of land in Sitio Masonting, Barangay San Jose, Malitbog, Southern Leyte, which are covered by Tax Declaration Nos. 6727, 6728, and 6729.[3] In 1983, Melitona had the parcels surveyed and consolidated.[4] In that same year, she was issued an Original Certificate of Title (OCT), which designated the consolidated parcels as Lot No. 416.[5]

When the spouses Dalida passed away, the lots were inherited by their children: Justiniano, Santos, and Morita. On November 21, 1988 and May 12, 1989, respectively, Santos and Morita sold their 1/3 share in the parcels covered by Tax Declaration Nos. 6728 and 6729 to Concepcion Bohol-Zenoni (Concepcion).[6] Pursuant to these transactions, on April 28, 1995, Justiniano and Concepcion partitioned Lot No. 416 between them, with Concepcion getting 2/3 of the lot and Justiniano getting 1/3.[7] In the meantime, both Morita and Santos passed away.[8]

Not satisfied with the partition, Santos' heirs filed a Complaint[9] for partition and/or quieting of title and damages before the Municipal Circuit Trial Court (MCTC) of Malitbog. During pre-trial, the MCTC ordered a survey of the property and appointed commissioners for the purpose.[10] The results of the survey were submitted to the MCTC and approved in the pre-trial order dated May 21, 1996.[11] Subsequently, Justiniano switched sides and made common cause with his brother's heirs.[12] The complaint was amended accordingly.[13]

On February 6, 1997, the MCTC issued an Order[14] forwarding the case to the RTC of Maasin City, on the strength of jurisprudence holding that jurisdiction over actions for partition and quieting of title lay with the RTC. On March 26, 1997, the Maasin City RTC issued an Order[15] acknowledging the error of the MCTC but nevertheless accepting the forwarded records and considering the case properly filed before it. Concepcion filed a motion to dismiss, arguing that the proper course of action was to dismiss the case and re-file it with the RTC, because the proper docket fees were not paid.[16] The RTC denied the motion but ordered the payment of the proper docket fees.[17] By this time, Justiniano had passed away and was substituted by his heirs.[18] The RTC

sought to settle the dispute, to no avail.[19] Instead, a second survey of the disputed lots was conducted.[20] On October 16, 2001, the Commissioner's Report[21] containing the results of the second survey was approved by the RTC.[22] Pre-trial was then terminated and both sides presented their evidence.

On November 9, 2006, the heirs of Justiniano[23] and Santos[24] (the Dalida heirs) filed a Second Amended Complaint[25] alleging that, per the October 16, 2001 Commissioner's Report, the Property Index Map, and the Property Control Roll of the Southern Leyte Provincial Assessor, Lot No.416 covered by Melitona's OCT was subdivided into Lot Nos. 416-A and 416-B; that Lot No. 416-A corresponds to Tax Declaration No. 6727, Lot No. 416-B corresponds to Tax Declaration No. 6728; and that the parcel covered by Tax Declaration No. 6729 is part of a different lot named Lot No. 441. They likewise alleged that the sale transactions between their ascendants and Concepcion only included the parcels covered by Tax Declaration Nos. 6728 and 6729; and that Concepcion remained in actual possession of the parcels covered by Tax Declaration Nos. 6727 and 6728, thus depriving them of their right to enjoy and receive their rightful shares in said lots.

In response, Concepcion argued that the RTC had no jurisdiction over the case for the assessed value of the lots is below the jurisdictional amounts under the law; that the Dalida heirs had no capacity to sue; and that the Dalida heirs were estopped from questioning the partition.

Ruling of the Trial Court

On October 31, 2008, the RTC rendered a Decision[26] in favor of the Dalida heirs. It adjudged the parcel covered by Tax Declaration No. 6727 to the Dalida heirs; and the parcels covered by Tax Declaration Nos. 6728 and 6729 to Concepcion (with 2/3 share) and Justiniano's heirs (with 1/3 share). The RTC also revoked the 1995 partition agreement.

In so ruling, the RTC gave credence to the allegations of the Dalida heirs, finding that they were able to establish by preponderance of evidence, through the October 16, 2001 Commissioner's Report, the History of Properties, and the Property Identification Map, that Lot No. 416 is a consolidation of the parcels covered by Tax Declaration Nos. 6727 and 6728. The trial court noted that Lot No. 416-A is a 1/3 portion of Lot No. 416 which is 12,648 square meters in area, and in the possession of plaintiff Desamparada Dalida; while Lot No. 416-B is a 2/3 portion of Lot No. 416 which is 25,296 square meters in area, and was in the possession of Concepcion; and the parcel of land covered by Tax Declaration No. 6729 is part of two different lots named Lot No. 441 and Lot No. 462 with an area of 7,065 square meters. In ruling that the sale to Concepcion covered the lots in Tax Declaration Nos. 6728 and 6729, the RTC gave greater weight to the Deeds of Sale presented by the plaintiffs over the bare testimony of Concepcion.

Her motion for reconsideration[27] having been denied,[28] Concepcion appealed to the CA, which rendered the assailed Decision and Resolution granting the appeal and dismissing the complaint of the Dalida heirs.

Ruling of the CA

In granting the appeal, the CA invoked the rule that in an action to recover real property, the plaintiff is required to clearly identify the land sought to be recovered. It held that the Dalida heirs were unable to do so. According to the appellate court, the Second Amended Complaint of the Dalida heirs states that under the Commissioner's Report, Property Index Map, and the Property Control Roll of the Southern Leyte Provincial Assessor, the Dalida heirs identified Lot No. 416-A, but failed to prove that this lot corresponds to Tax Declaration No. 6727. On the contrary, the Property Identification Map submitted in evidence shows that Lot No. 416-A is covered by Tax Declaration No. 6728 and not by Tax Declaration No. 6727.

The Dalida heirs filed a motion for reconsideration, which the CA denied via the assailed Resolution; hence this

petition, which seeks the remand of the case to the trial court for the purpose of allowing the parties to submit a survey plan approved by the Land Management Bureau, that harmonizes with the Property Index Map and Tax Map Control Roll issued by the Malitbog Municipal Assessor's office.

Our Ruling

Petitions for review under Rule 45 are limited to questions of law.[29] Thus, factual findings of the CA, when supported by substantial evidence, are binding upon this Court,[30] for the simple reason that the CA is still a trial court, while this Court is not a trier of facts.[31] However, such rule does not apply when the findings of the appellate court conflict with those of the trial court.[32]

The Dalida heirs alleged in their Second Amended Complaint before the RTC that: 1) they were the owners of the parcels covered by Tax Declaration Nos. 6727, 6728, and 6729; 2) that the parcel of land under Tax Declaration No. 6727 corresponds to Cadastral Lot No. 416-A, while the parcel of land under Tax Declaration No. 6728 corresponds to Cadastral Lot No. 416-B per the October 15, 2001 Commissioner's Report, the Property Index Map, and the Property Control Roll of the Southern Leyte Provincial Assessor; and 3) that the parcels covered by Tax Declaration Nos. 6727 and 6728 form part of one consolidated lot denominated as Cadastral Lot No. 416, which is covered by the Torrens title issued in the name of Melitona Dalida.[33]

To ascertain the veracity of these allegations, both the MCTC and the RTC appointed commissioners to determine the location of the parcels covered by Tax Declaration Nos. 6727, 6728, and 6729. In the MCTC, the appointed commissioners were Engr. Vivencio Jumawid from the City Environment and Natural Resources Office of Maasin City, Pocholo Sala from the Malitbog Municipal Assessor's Office, and Sofronio Manatad, Jr., the MCTC interpreter; while the RTC appointed Engr. Conrado Galeon (a private land surveyor), Engr. Val Jess Abar (from the Southern Leyte Environment and Natural Resources Office), Pocholo Sala, and Melvin Dublan from the Southern Leyte Provincial Assessor's Office.

The RTC held that "the plaintiffs have sufficiently established their claims over the parcel of land under Tax Declaration No. 6727," since what was only sold by Santos and Morita to Concepcion was their respective 1/3 share of the land covered by Tax Declaration Nos. 6728 and 6729.[34] However, the RTC Decision does not contain an explicit statement of the boundaries of the land covered by Tax Declaration No. 6727. Instead, it merely states that Engr. Conrado Galeon testified that "the portion of land in the sketch plan marked by blue ink with an area of 12,648 sq. meters is equivalent to Tax Declaration No. 6727, while the portion of land marked by red ink refers to the parcel of land with Tax Declaration No. 6728." [35]

On appeal by Concepcion, the appellate court found that the Dalida heirs failed to prove that the parcel covered by Tax Declaration No. 6727 corresponds to Lot No. 416-A. According to the CA, the Commissioner's Report dated October 16, 2001 only states that Lot No. 416 is covered by Tax Declaration Nos. 6727 and 6728 but is silent as to whether Lot No. 416-A corresponds to Tax Declaration No. 6727. The Property Identification Map shows that Lot 416-A is covered not by Tax Declaration No. 6727 but by Tax Declaration No. 6728.

Furthermore, a scrutiny of the case records before the trial court shows that the pieces of documentary evidence presented by the Dalida heirs are conflicting as to the true identity of the lot covered by Tax Declaration No. 6727. A comparison of the Property Identification Map[36] with the survey plan prepared upon order of the RTC[37] shows that the property denominated as Lot No. 416-A in the survey plan corresponds to that marked under Tax Declaration No. 6727 in the Property Identification Map, while the property marked under Tax Declaration No. 6728 in the Property Identification Map corresponds to Lot No. 416-B. However, a comparison of the Tax Map Control Roll[38] with the Property Identification Map — documents which were both obtained from the Southern Leyte Provincial Assessor — shows that the lot labeled under Tax Declaration No. 6727 in the

Property Identification Map is listed in the Tax Map Control Roll as Assessor's Lot No. 21 and Cadastral Lot No. 416-B; while the lot labeled under Tax Declaration No. 6728 in the Property Identification Map is listed in the Tax Map Control Roll as Assessor's Lot No. 22 and Cadastral Lot No. 416-A. The tax declarations themselves are likewise in conclusive, for in both Tax Declaration Nos. 6727 and 6728, the fields for Certificate of Title number, Cadastral Lot number, and Assessor's Lot number were left blank.[39]

It is therefore apparent that the findings of the commissioners, taken together with the documentary evidence submitted by the parties, fail to establish with certainty the exact metes and bounds of the lands covered by Tax Declaration Nos. 6727 and 6728.

In such cases where the evidence insufficiently indicates the identity of the properties in dispute, this Court has deemed it most equitable and just to remand the case to the trial court for a re-survey of the property under the auspices of a geodetic engineer employed by the Land Management Bureau. In *Heirs of Pabaus v. Heirs of Amanda Yutiamco*;^[40] We remanded the case back to the trial court for the conduct of a relocation survey by a geodetic engineer employed with the Land Management Bureau of the Department of Environment and Natural Resources (DENR) because the private geodetic engineer who conducted the survey did not comply with the Manual for Land Surveys in the Philippines and the cadastral map relied upon by petitioners for their claim was based only upon tax declarations. In *Heirs of Nabong v. Añar*, We likewise ordered a remand of the case, for the following reasons:

The Court notes that this case would have been clearly resolved had the trial court appointed a geodetic engineer, and not the municipal assessor who is obviously less qualified to ascertain the identity of the property and its history. Also, the respective tax declarations of the parties, with its description and boundaries, pertain to the years 1948, 1963, 1967, 1973, and 1974, for petitioners; and 1948 and 1952 for respondents. Meanwhile, the commissioner's report was based on an inspection made on the premises in 1989. The report did not contain any findings as to whether the property, at the time of the ocular inspection, contain the same boundaries as originally described in the parties tax declarations. The commissioner also failed to account for her conclusion that the property described under petitioners' Tax Declaration No. 19831 pertains to Lot 21, PLS 799, Case No. 1 of the Cadastral Survey of the Bureau of Lands, considering that she merely made an ocular inspection thereon. x x x^[41]

In the case at bar, while two surveys were conducted on the disputed lots, no geodetic engineer from the Land Management Bureau of the DENR was involved in any of them. Likewise, it has already been shown that the evidence submitted by the parties is conflicting and inconclusive as to the exact identity of the parcels covered by Tax Declaration Nos. 6727 and 6728. Considering that this case has dragged on for almost twenty-five (25) years,^[42] this Court deems it just and equitable to settle it once and for all through a definitive and authoritative survey of the disputed property undertaken by the agency with the required expertise on the matter.

WHEREFORE, premises considered, the petition is hereby GRANTED. The Decision dated April 19, 2013 and the Resolution dated August 12, 2014 of the Court of Appeals in CA G.R. CV No. 02980 are hereby REVERSED and SET ASIDE. The case is REMANDED to the Regional Trial Court, which is hereby directed to order the Land Management Bureau of the Department of Environment and Natural Resources to conduct a verification/relocation survey to determine the exact location and the metes and bounds of the parcels of land covered by Tax Declaration No. 6727 in the name of Concordia Dalida and Tax Declaration No. 6728 in the name of Melitona Dalida, in coordination with the Provincial Assessor of Southern Leyte and the Municipal Assessor of Malitbog, Southern Leyte.

SO ORDERED.

Perlas-Bernabe, S.A.J., (Chairperson), Hernando, Inting, and Delos Santos, JJ., concur.

[*] The Motion for Extension of Time to File Petition for Review on Certiorari is captioned "Adoracion P. Dalida, et al., petitioners, versus Concepcion Bohol-Zenone, respondent" (Rollo, p. 3), while the Petition for Review is captioned "Christopher I. Dalida, petitioner, versus Concepcion Bohol-Zenoni, respondent" (Rollo, p. 9).

[**] Also spelled as Zenone, Zinone, and Zenori in the rollo.

[1] Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Pampio A. Abarintos and Gabriel T. Ingles of the Eighteenth Division, Court of Appeals, Cebu City; rollo, pp. 86-93.

[2] Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Marie Christine B. Azcarraga-Jacob of the Special Former Eighteenth Division, Court of Appeals, Cebu City; id. at 103-107.

[3] Records, p. 1.

[4] Id. at 5.

[5] Id.

[6] Id. at 22-23.

[7] Bill of Exhibits, pp. 19, 54.

[8] Santos B. Dalida died on May 20, 1991 while Morita B. Dalida died on January 21, 1993. Id. at 16.

[9] Rollo, pp. 24-27.

[10] Records, pp. 49-51.

[11] Id. at 60.

[12] Id. at 64.

[13] Id. at 67-72.

[14] Id. at 77-78.

[15] Id. at 79-81.

[16] Id. at 83-89.

[17] Id. at 90-91.

[18] Id. at 98-101.

[19] Id. at 103-108.

[20] Id. at 122 & 124.

[21] Bill of Exhibits, pp. 12-14.

[22] Records, p. 129.

[23] Justiniano was survived by his wife Desamparada I. Dalida and their children, Reynaldo, Melquiades,

Siegfredo, Justiniano Jr., Deogracias, and herein petitioner Christopher, all surnamed Dalida. Bill of Exhibits, p. 16; Records, p. 159.

[24] Santos was survived by his wife Adoracion P. Dalida and their children, Alexander, Benjamin, Elmer, Ferdinand, Gwendalyn, and Humabon, all surnamed Dalida. Id.

[25] Records, pp. 159-168.

[26] Rendered by Executive Judge Bethany G. Kapili; rollo, pp. 43-65.

[27] Records, pp. 254-266.

[28] Id. at 268.

[29] Rules of Court, Rule 45, Section 1.

[30] Samaniego-Celada v. Abena, 579 Phil. 60, 66 (2008).

[31] Pascual v. Burgos, et al., 776 Phil. 167, 187 (2016).

[32] Picardal y Baluyot v. People, G.R. No. 235749, June 19, 2019.

[33] Records, p. 160.

[34] Id. at 249.

[35] Id. at 240.

[36] Bill of Exhibits, p. 10.

[37] Id. at 16.

[38] Id. at 11.

[39] Id. at 5-6.

[40] 670 Phil. 151 (2011).

[41] Heirs of Nabong v. Añar, 480 Phil. 764, 771-772 (2004).

[42] The original complaint before the MCTC was filed on April 17, 1995. Records, p. 1.

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