

VERDANT ACRES, INC., PETITIONER, VS. PONCIANO HERNANDEZ, RESPONDENT.*G.R. No. 51352. January 29, 1988*

Ponente: NARVASA, J.

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The petition in this case -- seeking review on certiorari of a resolution of the Court of Appeals -- was initially dismissed for lack of merit by Resolution dated December 5, 1979. A motion for reconsideration was filed by the petitioner on January 24, 1980, and a comment thereon was required and subsequently filed under date of February 19, 1980. After a careful and painstaking analysis of said motion and comment, and an assiduous study of the record, the Court is constrained to recall and set aside its earlier directive dismissing the petition, and to resolve instead to give due course to, and grant, the same.

The instant appellate proceeding had its genesis in a civil suit instituted by Verdant Acres, Inc. in the Regional Trial Court of Rizal[1] to recover from Ponciano Hernandez a portion of land with an area of 4,903 square meters, alleged to form part of an 83,850 square-meter lot owned by it and covered by its Transfer Certificate of Title No. 93366, which it contended had been "overlapped" by the title of Hernandez. Hernandez, for his part, averred that said portion correctly pertained to his own property, which had an area of 73,850 square meters and was covered by his Original Certificate of Title No. 6178.[2] Judgment was rendered by the Trial Court in favor of Verdant Acres, Inc., hereinafter simply called Verdant. The Court declared Verdant to be the rightful owner of the claimed area of 4,903 square meters; directed that an amended technical description of Hernandez' Lot 1, Psu-181425 correspondingly reducing its area be drawn up by the Director of Lands and the portion in question be excluded from Hernandez' title; and commanded Hernandez to vacate said portion and deliver it to Verdant. No damages were however awarded since Hernandez was found to have acted in good faith in relying on his title in resisting Verdant's claim.[3]

Hernandez appealed to the Court of Appeals, ascribing several errors to the decision of the Trial Court. The Appellate Court, however, adjudged those assigned errors as unfounded and unsubstantiated and affirmed the decision of the Trial Court on March 1, 1979.[4]

A motion for reconsideration was seasonably filed by Hernandez, inviting attention to the record of the testimony of the witnesses on both sides,[5] and quoting copiously therefrom in insistent iteration of the plea assigning error to the Trial Court in its appreciation of the evidence. Three members of a Special Division of Five of the Court of Appeals found merit in the motion, avowedly after careful consideration of the grounds urged therein and a re-examination of the oral and documentary evidence. By a vote of 3 to 2, the Special Division promulgated a resolution, reversing and setting aside the Decision of March 1, 1979, reversing also the appealed judgment of the Trial Court and dismissing Verdant's complaint in the original action without pronouncement as to costs.[6] Hence, the present petition by Verdant, praying that this last resolution be in turn reversed on the ground that the findings of the majority of the Special Division are "premised on a misapprehension of fact."

There appears to be no dispute whatsoever about the antecedents, which the original Decision of the Court of Appeals found were "aptly summarized" by the Trial Court, thus:

"On June 19, 1952, Decreed No. 7278 was issued in Land Registration Case No. 360 of this Court to Enrique Guinto as the owner in fee simple of a parcel of land located at Pamplona, Las Piñas, with an area of 73,850 square meters, more particularly described as follows:

'A parcel of land (Lot 1, plan Psu-124488, Case No. 360, G.L.R.O. Record No. 4867), situated in the Barrio of Pamplona, Municipality of Las Piñas, Province of Rizal. Bounded on the N. by properties of Vicente Gervacio, Juan Tolentino and Ruperto Angeles, on the E. and SE. by property of Bonifacio Hernandez; on the S. by property of Felisa Angeles; on the SW. by property of Ramon Basa; and on the NW. by property of Apolonio Torres. x x x x containing an area of seventy three thousand eight hundred and fifty (73,850) square meters, more or less. (Exhs. C-1 and D-1, p. 145, Rec.)

"On November 25, 1961, Guinto sold the land to Verdant Acres for P65,896 (Exhs. F). Verdant Acres caused the property to be subdivided into residential lots for sale to the public. The complex subdivision plan (LRC) Psu-12734 (Exhs. G-2) was approved by this Court on June 8, 1964 (Exhs. G, G-1).

"In the process of developing the subdivision, Verdant Acres discovered that approximately 5,000 square meters on the southeast side of its property had been fenced or planted to palay by Ponciano Hernandez. Twelve (12) subdivision lots were embraced within the area occupied by Hernandez (Exhs. B).

"Verdant Acres caused two (2) relocation surveys to be made of Lot 1, Psu-124488, by Geodetic Engineer Cecilia Rebuitan. The first was made in 1962 (Exhs. H) and the second in 1968 (Exhs. "D"). The relocation surveys disclosed that Hernandez was occupying a portion of the land of Verdant Acres which portion has an area of 5,218 square meters. On October 18, 1972 Verdant Acres sent a written demand to Hernandez to vacate the area (Exhs. E). Hernandez ignored the demand. On April 21, 1972 Verdant Acres filed this suit.

"Ponciano Hernandez is the registered owner of Lot 1, Psu-181245 which has an area of 27,015 square meters. He had inherited that property, along with another parcel of land from his father, Bonifacio Hernandez, who owned two (2) unregistered parcels of land in Barrio Kay Ruruwi, Pamplona, Las Piñas, Rizal. One parcel had an area of 24,826 square meters (Exhs. 5 and 5-A). The second parcel which Bonifacio purchased from the spouse Antonio Aldana and Tomasa Quilatan on May 21, 1918 (Exh. 3), had an area of 12,401 square meters (Exhs. 5-B and 5-C). It adjoins Guinto's property.

"Bonifacio had paid taxes on his lands since 1917 (Exhs. 4-A to 4-CC). On January 4, 1919 he asked a surveyor to make a consolidated survey of the two parcels of land (Exh. 1). The plan Psu-16118, was approved by the Director of Lands on August 21, 1919. As determined in that survey, his lands had a total area of 43,178 square meters. However, he did not initiate proceedings for the registration of the title in his name.

"Bonifacio Hernandez died on August 1, 1928. He was survived by his sons Ponciano and Ramon (the latter is now deceased). After the war, Ponciano Hernandez unsuccessfully tried to locate in the Bureau of Lands the original tracing cloth plan of Psu-16118 (Exh. 1-A).

"In 1960, he fenced the land and had it surveyed by Geodetic Engineer Godofredo Limbo. The plan Psu-181245, embrace three (3) lots (Exh. 2). Lot 1 (the lot in question) has an area of 27,015 square meters. Lot 2 has an area of 155 square meters, while Lot 3 has an area of 19,543 square meters. The three (3) lots have an aggregate area of 46,713 square meters. Thereafter, he filed a petition for the registration of his title to them. On May 4, 1967, Decree No. N-115756 was issued in LRC Case No. P-191 of this Court declaring Ponciano Hernandez, the owner in fee simple of Lot 1 Psu-181245. Original Certificate of Title No. 6178 of the Rizal Registry of Deeds was issued to him on July 25, 1967 (Exh. 6)

"After the complaint was filed in this case but before the trial, Verdant Acres caused a verification survey to be made of its land by Geodetic Engineer Rodrigo Cañero (Exh. J). Present during the verification survey were Serafin Angeles, president of Verdant Acres, Ponciano Hernandez, his son Atty. Macario Hernandez, and their surveyor, Geodetic Engineer Basilio Cabrera.

"Cañero ascertained that there was an overlapping between Hernandez's plan Psu-181245 and Guinto's plan Psu-124488. He found that the two (2) plans 'overlapped in the field by 4,839 square meters.' (Exhs. L, M, N, O, P, Q, R).

"According to Cañero, the overlapping was caused by the misplacement of the tie line or starting point of the survey of Hernandez's property which was 'pushed inside' the property of Guinto or Verdant Acres. On the other hand, Hernandez's surveyor, Basilio Cabrera, found nothing wrong with the two (2) surveys (Exh. 14). In view of the conflicting reports of the surveyors, the Court on May 28, 1973 ordered the Director of Lands to make a verification survey of the lots in question. Surveyor Romeo Ardina of the Bureau of Lands made the survey in the field (pp. 118-120, Rec.). On September 28, 1973, Engineer Ardina submitted to the Court a report, together with his verification survey plan vs. -04-000006 (Exhs. S and S-1). He affirmed that the plan Psu-181245 of Hernandez overlapped a portion of plan Psu-124488 of Verdant Acres to the extent of 4,903 square meters, or 64 square meters more than Surveyor Cañero's computation. His report reads as follows:

'1. That the verification survey is based upon the technical descriptions of Lot 1, Psu-124488 and Lot 1, Psu-181245, both descriptions of which were obtained from the Central Office of the Bureau of Lands;

'2. That when our field work was on the side of the disputed area, Mr. Ben Lara, representing the Verdant Acres, Inc. and Atty. Hernandez representing the defendant Ponciano Hernandez were present;

'3. That a barb wire fence was found on the disputed area, the fence being owned by defendant Ponciano Hernandez, which in turn is verified to be inside the lot owned by the Verdant Acres, Inc. or more specifically inside Lot 1, Psu-124488;

'4. That the total area of the overlapping portion is 4,903 square meters, more or less;

'5. That the disputed area is wholly ricefield and is planted with palay;

'6. That a sketch plan is herewith enclosed for ready reference by this Honorable Court.' (pp. 223-229, Amended Record on Appeal)."[7]

In the light of these background facts, and after reviewing the Trial Court's decision in the context of the parties' proofs, the Court of Appeals -- in what may be termed the "Villasor Decision" -- determined that the errors assigned in Hernandez' appeal had not in truth been committed. Said Decision ruled that the first two (2) alleged errors -- lack of jurisdiction over the person of Hernandez and his deceased father, and failure of the complaint to set out a cause of action -- were non-existent. Whatever mistake, it said, might have been made by Verdant in initially directing its action against the person of one Bonifacio Hernandez, then believed to be an adjoining owner, had been promptly corrected by amendment of the complaint before an answer had been filed, which could be effected as a matter of right in accordance with Section 2, Rule 10 of the Rules of Court. The point, in any event, has not been pressed by Hernandez. He makes only the most casual reference to it in the motion for reconsideration subsequently filed by him, mentioning it only in the concluding part of that motion almost as an afterthought. It is not taken up at all in the resolution of the Special Division of Five which adjudicated that motion, and is now the subject of this appeal. Be that as it may, the Court now rules that the point has been correctly disposed of by the Villasor Decision.

The Villazor Decision also rejected Hernandez' arguments in attempted substantiation of the third, fourth and sixth errors attributed by him to the Trial Court, which relate to the appreciation of the evidence, generally. Besides invoking the familiar rule that findings of fact of trial courts which, having heard at first-hand the testimony of the witnesses and observed their behavior and demeanor on the stand, are in a better position to assess and decide on their credibility, it also asserted that a close scrutiny of the Trial Court's findings in relation to the evidence failed to reveal that there had been any omission to consider facts of substance and value so as to warrant a reversal of those findings. And advertent to what it found to be three (3) substantially identical and mutually supportive conclusions -- two of them emanating from government officers specifically charged with conducting and approving official land surveys -- confirming the existence of overlapping claimed by Verdant, said Decision approved and sanctioned the Trial Court's ruling[8] that the right of the holder of the earlier title to the overlapped area must prevail over that of the holder of the later title.

Hernandez' fifth assignment of error: that his counsel had been unduly restricted in the cross-examination of Verdant's witness, Romeo Ardina, was likewise found to be without merit by the Villazor Decision, which held that questioning of the witness regarding another plan pertaining to persons not involved in the proceedings a quo had been properly proscribed by the Trial Court.

The Resolution of August 24, 1979 of the Special Division of Five which overturned the Villazor Decision and will hereafter, for convenience, be referred to as the "Reversing Resolution," does not deal with or pass upon the jurisdictional and procedural questions raised in Hernandez' first, second and fifth assignments of error. Neither does it take issue with the ratio of said Decision affirming the precedence of the right of the holder of an earlier registered title over that of the holder of a later one to an area of land commonly covered by both titles. What it does is re-evaluate and measure and weigh, each against the other, the opposing proofs presented by the parties on the question of whether or not the lands described in and covered by their respective certificates of title in fact overlapped each other.

The Reversing Resolution rejects the testimony of Engineer Romeo Ardina on the existence of overlapping, sustains the contention of respondent Fernandez that said testimony is inconclusive, indefinite and doubtful, and rules that it does not deserve much weight. It upholds the respondent's thesis that Ardina's declarations are not only unacceptably ambivalent but are also sufficiently contradicted by the oral and documentary evidence, more specifically: (1) the reports of the Bureau of Lands and the Land Registration Commission[9] that the plans respectively covering the lands of Verdant and Hernandez do not overlap each other as shown by the sketch plans annexed thereto;[10] and (2) the "positive and clear" testimony, not only of Engineer Basilio Cabrera who had made a verification survey of said lands on the ground and reported thereon,[11] but also of Hernandez himself and of Emilio Gervacio and Magtanggol Gorospe, former tenants of Verdant's predecessor, Enrique Guinto.

This Court is unable to agree. There is, to begin with, nothing doubtful or inconclusive about Ardina's testimony in regard to the alleged overlapping. From the portions thereof which are quoted in the Reversing Resolution,[12] it is clear that said witness was quite categorical in affirming the existence of such overlapping, stating that it existed "on the ground", although this was not apparent from examining only the plans themselves. Thus:

"Q -

Now, you stated in this report which has already been marked as Exhibits S and S-1 that the overlapping of the area is 4,903 square meters. Will you please inform, the Honorable Court which parcels of land overlap this area, this parcel of land?

A -

I cannot categorically answer that, your Honor, because as far as I can determine, both surveys are correct, only there overlapping there in the field.

Q -

Is this area of 4,903 square meters within the property covered by PSU-124488 Lot1?

A -

The overlapped portion is covered by PSU-Lot 124488 and Lot 1 of PSU-181245.

Court:

Q -

Now, if both plans are correct, how did it happen that there was an overlapping?

A - It should be in the latter plan.

Q - Which one is that?

A - The latter plan, your Honor.

Atty. De Mesa:

Q - Now, in these two plans, namely, Lot 1-PSU-124488 and Lot 1-181245, which is the latter plan?

A - Because the basis in the numbering of PSU, it is from a lower number going to higher number, so the latter one is 181245.

* * *

Court:

The plan of Hernandez.

A - Should conform with this boundary they are supposed to have common boundary.

Court:

Q - According to the return?

A - Yes, your Honor.

Court:

Q - But?

A - But actually on the ground they are overlapping each other."

What, obviously, Ardina was saying was that no overlapping could be perceived from a mere "table survey" of the plans in question, but became apparent once the coordinates and other technical data appearing in said plans were actually plotted in the field. And plot them in the field he did, in a verification survey[13] which showed that both plans commonly covered an area of 4,903 square meters. In truth, therefore, and as his cited testimony unquestionably demonstrates, Ardina did not quibble about the existence of overlapping. He could not have done so, given the results of his own verification survey. What perhaps he could not state with certainty -- though he did declare that the Hernandez plan (plan PSU-181245) was the later plan -- was which of the lands described in two plans illegally encroached upon the other; and that was only to be expected, because the answer to that question depended not alone on the technical integrity of either plan, but also and to a greater degree, on which of the asserted titles issued upon said plans, in point of law, conferred a superior right to the overlapped portion -- a subject which lay quite beyond the area of his particular expertise as a geodetic engineer.

What has just been said applies equally well to the testimony of Rodrigo Cañero, which the Reversing Resolution rejects upon the same grounds of alleged ambiguity and inconclusiveness about the existence of overlapping. Cañero was as positive as Ardina about the fact that the two lots encroached upon each other if plotted according to their respective plans, declaring that "(i)n the title there is no overlapping *** but in the field, there is," and that the overlapped portion had a width of about thirty meters.[14] What only he could not state with certainty was whether this was due to an error in the Hernandez plan although, like Ardina, his opinion was that it was, as disclosed by the record of his testimony, viz:

"Q - Where was the error in the survey?

A - The tie line ma'am.

Q - Which tie line is wrong?

A - I believe the tie line of Hernandez is wrong ma'am.

Court:

Q - This is the tie line. How do you explain that?

A - The tie line of the survey of the Hernandez property might be wrong ma'am.

Q - You are not sure?

A - I am sure that is wrong as per my finding, ma'am. The starting point of the Hernandez property might be wrong."^[15]

It is true that the Director of Lands and the Land Registration Commission originally reported that the two lots did not overlap. But what the Court of Appeals overlooked in relying on those reports is that they were superseded when, in view of the conflicting reports of Engineers Cañero (for Verdant) and Cabrera (for Hernandez), the Trial Court ordered the Director of Lands to make a verification survey, which resulted in the finding of Engineer Romeo Ardina^[16] that the two lots in fact overlapped to the extent of 4,903 square meters.

Again, beyond declaring that the testimony of Romeo Ardina (and by implied extension that of Rodrigo Cañero) is contradicted by the Hernandez witnesses, the Reversing Resolution offers no reason or explanation for according the latter superior weight. It will not suffice to justify a reversal simply to quote transcribed testimony and pronounce it to be superior to that which both the Trial Court and the Court of Appeals itself had earlier believed and credited, without giving any reason therefor. Nothing in said Resolution, therefore, argues with any persuasion for accepting proofs which the Trial Court, with apparent good reasons which are stated in its decision, rejected as unreliable in this wise:

"In claiming that there is no overlapping, Hernandez relies on earlier reports of the Director of Lands and the Land Registration Commission to the Court, certifying that there is no overlapping between plans Psu-181245 and Psu-124488 (Exhs. 7 and 8). However, those reports are inconclusive because they were based on mere 'table surveys' using only the survey returns of the conflicting plans. Defendant's witness, Maximo Pascua, of the Stereograph Section of the Bureau of Lands, admitted that he did not go to the field to verify the overlapping between plans Psu-124488 and Psu-181245. He did not ascertain 'the actual relation of the aforesaid surveys on the ground.'"

"Cabrera, Hernandez's surveyor, did not locate the boundaries of Lot 1, Psu-124488, the land of Verdant Acres. He took for gospel truth the statements of two (2) illiterate farmers, Magtanggol Gorospe and Emilio Gervacio, that Hernandez's barbed wire fence 'marks corner 12 of Lot 1-124488'. Cabrera did not take measurements, nor compute the area in the field of Lot 1 Psu-124488 as stated in the technical description. Neither did he ascertain whether that area was diminished by the barbed wire fence which Hernandez put up. What he computed was the area of Hernandez's Lot 1, Psu-181245 which, as he found, 'did not differ from what is found and _____ computed on the ground.

* * *

Cabrera did not ascertain whether Hernandez had usurped a portion of plaintiff's Lot 1, Psu-124488. Consequently, the surveys made by Ardina and Cañero, positively finding that an overlapping exists, is (sic) entitled to more weight than Cabrera's survey report." [17]

And there is thus, also, every reason to agree with the assessment of the Villasor dissent (to the Reversing Resolution) that the evidence for Verdant is both qualitatively and quantitatively superior to the proofs of Hernandez: qualitatively because such evidence consists of and/or is based on or confirmed by findings of an official surveyor of the Bureau of Lands, and quantitatively, because:

"* * * two surveyors, in the persons of Ardina and Cabrera (should be Cañero) arrived at the conclusion that there was overlapping between the two lots in question while only Surveyor Cabrera supported the opposite view. Cabrera in his testimony speaks of three kinds of computations, for purposes of the verification survey namely: solar computation, traverse computation and boundary computation which are merely approximations but without connecting the points to the tie line, one may not be able to accurately pinpoint the boundaries of any particular lot. Thus, Engineer Ardina had to make reference to the tie line for his verification survey of the lots in question on the field. In surveying, a property survey tied into the national triangulation network (cadastral plan) is more permanent and more easily retraceable than one dependent entirely on monuments set at the property corners (The Encyclopedia Americana Vol. 26, p. 98a). That is why the opinion of Ardina, corroborated by Engr. Cañero, is more reliable than that expressed by Cabrera." [18]

All that has thus far been stated make it clear that the petition has correctly invoked this Court's prerogative authority to review factual findings of the Court of Appeals, in exception to the general rule of finality of such findings, upon grounds established by precedents too numerous and well-known to need citation, it being sufficient to mention that among such grounds are: where such findings (of fact) conflict with those of the Trial Court, or when the judgment complained of is based on a misapprehension of the facts.

Upon the record and the evidence it is beyond any doubt that the lands described and embraced in the certificates of title respectively asserted by Verdant and Hernandez overlap each other, and this to the extent of 4,903 square meters as determined in the official verification survey, Exhibits S and S-1, and so found by the Trial Court as well as affirmed in Appellate Court's original judgment of March 1, 1979. On the question of who, as between the parties, is entitled to the overlapped portion, the Trial Court also correctly ruled in favor of Verdant as the holder of the earlier registered title on the basis of the precedents cited in its decision. [19]

WHEREFORE, the petition is granted. The Court of Appeals Resolution of August 24, 1979 complained of is reversed and set aside, and the Decision a quo of the Trial Court, as well as that of the Court of Appeals affirming the same, are hereby affirmed and reinstated. Costs against respondent.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] Docketed as Civil Case No. 16049, assigned to Branch XIX, Hon. Carolina C. Griño-Aquino, presiding.

[2] Rollo, pp. 7-8, 36.

[3] Rollo, pp. 36, 43-44

[4] Penned for the First Division by Villasor, J., and concurred in by Reyes, A., P.J., and Reyes, S.F., J.

[5] Hernandez himself; Emilio Gervasio; Magtanggol Gorospe; Basilio Cabrera; Romeo C. Ardina; Rodrigo Cañero}

[6] Reyes, A., P.J., ponente; Reyes, S. and Gorospe, JJ., concurring; Villazor and Asuncion, JJ., dissenting

[7] Rollo, pp. 48-52

[8] citing Legarda vs. Saleeby, 31 Phil. 590; Gatioan vs. Gaffud, 27 SCRA 706; Sideco vs. Aznar, L-4831, April 24, 1953; Government vs. Zamora, 41 Phil. 905; Reyes vs. Borbon, 50 Phil. 791; and Singson vs. Manila Railroad Co., 60 Phil. 192

[9] Exhibit 7

[10] Exhibits 8 and 8-A

[11] Exhibits 13 and 14

[12] Rollo, pp. 58-60

[13] Exhibits S and S-1

[14] TSN February 8, 1973, pp. 36-37; Rollo, pp. 60-61

[15] Id.

[16] Exhibits S and S-1, *supra*

[17] Rollo, pp. 41-42

[18] Rollo, p. 87

[19] See footnote 8, *supra*

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