

AMANCIO SESE, PETITIONER, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT, CRISTETA R. BAGANO, AND BERTOLDO R. BAGANO, RESPONDENTS.

G.R. No. 66186. July 31, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

In this petition for review, by way of appeal by certiorari, under Rule 45 of the Rules of Court, as supplemented by, and in conjunction with, Republic Act No. 5440, the petitioner, Amancio Sese, impugns the Decision of the Court of Appeals promulgated on September 29, 1983 and its Resolution promulgated on December 19, 1983, denying his Motion for Reconsideration seasonably filed. The questioned decision of the respondent Court of Appeals (formerly Intermediate Appellate Court), penned by Justice Porfirio V. Sison, Chairman of the 4th Civil Cases Division,[1] set aside and reversed the decision of the trial court.[2] The dispositive portion of the decision of the trial court states:

XXX XXX XXX

WHEREFORE, the Court finds and so holds:

- (1) Dismissing this case with costs against the plaintiffs;
- (2) Declaring the defendant the true owner of the land in question; and
- (3) Ordering the plaintiffs, jointly and severally to pay to the defendant attorney's fees the sum of One Thousand (P1,000.00) Pesos and litigation expenses in the sum of One Thousand (P1000.00) Pesos.[3]

XXX XXX XXX

On the other hand, the respondent appellate court decided the appeal of the plaintiffs-appellants-spouses, Cristeta C. Bagano and Bertoldo R. Bagano, thus:

XXX XXX XXX

WHEREFORE, the decision appealed from should be, as it is hereby, set aside and reversed and another one is rendered declaring plaintiffs-appellants the owners of the land described in par. 4 of their complaint and consequently ordering defendant-appellee to vacate the same and surrender possession thereof to the plaintiffs-appellants.

Plaintiffs-appellants' claim for actual, nominal, moral and exemplary damages is denied for lack of sufficient evidence. They are, however, entitled to the sum of P2,000.00 as counsel fees and other expenses of litigation. No costs.

SO ORDERED.[4]

The Resolution of the appellate court, also penned by Justice Porfirio V. Sison, curtly denied Sese's motion for

reconsideration saying: "A second review of the records does not yield any cause or reason for a finding favorable to the defendant-appellant." [5]

We, however, find otherwise.

There is, indeed, merit to the petitioner's contention that the Honorable Intermediate Appellate Court (now Court of Appeals) erred:

- I. In holding that the land in question was fully identified by the private respondents herein;
- II. In holding that the private respondents have successfully proven their title to the land in question;
- III. In not holding that the petitioner herein is the true and absolute owner of the land he bought from his predecessor-in-interest;
- IV. In not affirming the decision of the trial court.

The first assignment of error involves the question of the identity of the land while the second and third focus on the issue of ownership. The resolution of the issue of ownership is dependent upon the determination of the identity of the land. We thus endeavored to resolve first the latter.

In their complaint for recovery of possession and ownership of a 3-hectare agricultural land filed against herein petitioner, Amancio Sese, the private respondents claim that the land now subject of this controversy is part of a 23.04-hectare agricultural land which they acquired partly by inheritance and partly by purchase. In further proof of their right over the land, the private respondents also assert that their predecessors-in-interest acquired the property from the heirs of the late Marciano Brioso in 1950. According to the private respondents, the 23.04-hectare agricultural land is bounded as follows:

- North - Mabugna River;
- East - Andres Tugao, Andres Ramires, and Julian Licup;
- South - - Sagawsawan River;
- West - Mateo S. Pecson.

On the other hand, the land subject of this controversy being part of the bigger land is bounded thus:

- North - Cristeta C. Bagano and V. Gigante;
- East - Cristeta C. Bagano
- South - - Cristeta C. Bagano; and
- West - - Cristeta C. Bagano

Inside the land claimed by the private respondents, however, are several persons who are in actual possession. One of the witnesses for the petitioner, Silverio Altarejos, is actually in physical possession of the northern portion of the land while Victorio Gigante has title over his land situated in the western portion. These findings of the trial court which we find no reason to dispute demonstrate that the questioned land has the following boundaries:

- North - Silverio Altarejos
- East - Sagawsawan River
- South - - Fernando Eclipse

- (now Thelma Ramos)

West - Victoriano Gigante

The private respondents' claim that the land in question was previously located at Pinamalatican but later became part of Bo. Umabay Exterior by virtue of some adjustments made after the war is not substantiated by the evidence on record. On the contrary, the evidences submitted by the private respondents themselves, which include the tax declaration and the deed of sale executed by the heirs of Higinio Quiero and the sketch showing the boundaries and extent of the entire property of respondent in relation to its adjoining areas, indicate that respondents' land is actually situated in Bo. Pinamalatican and not in Bo. Umabay Exterior.

These evidences were ignored by the respondent court which chose to give credence to the spouses Bagano's claim as set forth above.

As a rule, findings of fact of the Court of Appeals are final and conclusive and cannot be reviewed on appeal, provided, they are borne out by the record or are based on substantive evidence. However, this rule admits of certain exceptions.[6] In this case, we are compelled in order to render substantial justice, to review the findings of fact by the Court of Appeals for the following reasons:

1. said findings of facts are conclusions without citation of specific evidence on which they are based;
2. the findings of fact of the Court of Appeals are contrary to those of the trial court;
3. the judgment is based on misapprehension of facts.

The trial court also found that while the subject land is actually bordering the Sagawsawan River which is a natural landmark on the south of the petitioner's property, the sketch Exhibit "E" submitted by the respondents themselves shows that the land in question is located some distance from the bank of the Sagawsawan River. This evidence was likewise ignored by the respondent court.

Note must also be taken of the fact that the respondents made mention of two different tax declarations allegedly covering the same parcel of land. Under par. 2 of their complaint, the respondents indicated that Tax Declaration No. 4537 covers their entire 23.04-hectare property. They, however, offered as exhibit Tax Declaration No. 4621 which, they likewise allege, covers the same parcel of land. This indeed, is an indication that the private respondents are unsure of the property they are claiming.

All these give rise to a grave doubt as to the precise identity of the parcel of land which the private respondents claim to be their property but which according to the evidence on the record, Sese bought from Jose Arado and which he (Sese) actually occupies.

It is true that the identity of the land has been "admitted" by the parties in the pre-trial of the case as shown in an order[7] dated July 9, 1974, as follows:

In view of the fact that the parties failed to arrive at an amicable settlement and the identity of the land admitted by them, with the issue only of ownership to be resolved by this court, let this case be stricken from the pre-trial calendar. Set this case for trial on September 2, 1974 at 8:00 o'clock in the morning.

SO ORDERED.

and which the respondent court utilized as a basis in disposing perfunctorily the issue of identity.

The rule may be that admissions made by the parties during a pre-trial conference and incorporated in the pre-trial order are binding but this rule is not without exceptions. If, in order to prevent manifest injustice, the admissions

made by the parties during the pre-trial were disregarded by the lower court, as in this case, we will not hold otherwise. For indeed, it would be contrary to the objective of the law if we were constrained to rule that the land subject of this controversy were the same land being occupied by the petitioner if the evidence negates such claim. To so hold would unduly prejudice the substantial rights of the petitioner who stands to lose his property if only because of mere technicality, inaccuracy of language, or plain carelessness.

Thus in order to maintain an action to recover ownership of real property, the person who claims that he has a better right to the property must prove not only his ownership of the same, but first, he must satisfactorily prove the identity thereof.[8] In this case, failing to fix the identity of the real property they claim, the respondents action must fail. And this, in fact, was what the trial court has decided. And for such failure, the issue of ownership need no longer be passed upon by us. Nonetheless, we are convinced by the findings of the trial court that the respondents, likewise, have not satisfactorily proven their title to the property, and we quote:

XXX XXX XXX

It is admitted by the plaintiffs that the defendant is in actual possession of the land. For that reason, the defendant has in his favor the presumption of ownership arising out of his actual occupancy (Santos & Espinosa vs. Estejada, 26 Phil. 398). It is true the plaintiffs have presented document (sic) exhibits to support their claim of ownership but these documentary evidence show that the land of the plaintiffs is located in Pinamalatican, Mobo, Masbate, and not in Umabay Exterior, Mobo, Masbate which barrios are far from each other.

It is also admitted by the plain-tiffs that they did not have actual possession of the land in question for they are residing in Cebu City. According to them their tenant is Silverio Altarejos but the latter denied this claim. As a matter of fact, the plaintiffs admitted that there is pending case in Branch I of this Court between them and Silverio Altarejos, also for recovery of ownership.

On the other hand, the witnesses for the defendant stated categorically that the land has been cultivated, possessed and owned since before World War II by Fructoso Arado, father of Jose Arado. When Fructoso Arado died, his son Jose Arado succeeded his possession until it was sold to the herein defendant on September 6, 1966 as evidenced by Exhibit "2". Jose Arado's evidence, of possession of the land sold is Exhibit "3". Since September 6, 1966, the defendant has been in possession of the land, enjoying it peacefully and free from interference by whomsoever.

The fact also remain (sic) that no attempt was ever made by the plaintiffs to have the tax declaration of Arado cancelled if it were true that the property subject of said tax declaration belongs to the plaintiffs.

The plaintiff, Cristeta Bagano, is a practicing lawyer and yet the Court is intrigued why it took her almost seven years before she brought this case to Court. If she believed that she has a meritorious case, why did she sleep for almost seven years before vindicating her right in Court? As a lawyer, the Court expected her to be more vigilant in her rights and the Court believes that she would not have wasted that long period of time if she had a meritorious and valid claim against the herein defendant.[9]

XXX XXX XXX

WHEREFORE, (1) the judgment of the Court of Appeals dated September 29, 1983 and its Resolution dated December 19, 1983 are set aside; (2) the judgment of the trial court dated January 18, 1980 is hereby REINSTATED. No costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] With Justices Abdulwahid A. Bidin, Marcelino R. Veloso, and Desiderio P. Jurado.

[2] Regional Trial Court, Fifth Judicial Region, Branch XLVI, formerly Court of First Instance of Masbate, Tenth Judicial District, Branch III, Judge Irineo V. Mendoza.

[3] Record on Appeal, 34; Rollo, 32.

[4] Decision, intermediate Appellate Court, Annex "A" Petition; Rollo, 28.

[5] Resolution, Annex "B", Petition; Rollo, 30.

[6] Moran Jr. v. Court of Appeals, 133 SCRA 88; Manero v. Court of Appeals, 102 SCRA 817; Carolina Industries v. CMS Brokerage, 97 SCRA 734; Sacay v. Sandiganbayan, 142 SCRA 593.

[7] Record on Appeal, p. 16.

[8] Sanchez Mellado v. Municipality of Tacloban, 9:92; Lubrico v. Arbo, 12:391; Belen v. Belen, 13:202; Salacup v. Rambac, 17:21; Dela Cruz v. Nino, 18:284; Santos v. Estejada, 26:398; Del Valle v. Mercado, 34:963; Marcelo v. Maniquis, 35:134 Misamis Lumber Co. Inc. v. Director of Lands, 57:881.

[9] Record on Appeal, pp. 33-34.

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