

ASUNCION SANTOS, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND GAVINO RAMOS, RESPONDENTS.

G.R. No. 74243. November 14, 1986

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review by way of appeal by certiorari of the judgment of the Intermediate Appellate Court (now Court of Appeals) affirming the decision of the trial court in a petition for declaratory relief.

Private respondent herein, Gavino Ramos, was the petitioner for declaratory relief in the trial court while petitioner herein, Asuncion Santos, was the respondent. Judgment was for Ramos.

In affirming the trial court's decision, the appellate court made the following findings:

"After a careful examination of the evidence on the record, we find no merit in this appeal.

There is no question that petitioner executed two deeds of sale in favor of respondent. The first covering Lot 1317 dated August 28, 1961 (Exh. "A") and the second covering Lot 559-B dated September 24, 1964 (Exh. "B").

We find, however, that the second sale was merely in substitution of the first as title to the first, Lot 1317 could not be registered in respondent's name because the OCT covering the same had been lost.

There is sufficient evidence on record proving that the first sale was never effected nor did the parties intend to give it effect.

FIRST: Exhibit "C", entitled "Kasun-duan sa Ipagagawang Palaisdaan sa Baruya, Hermosa, Bataan", covering Lot 1317 and dated January 26, 1957 executed by and between petitioner and his brothers and sisters on the one hand and respondent on the other, provided that the latter shall undertake to construct a fishpond on Lot 1317 and in return respondent shall be allowed the use of Lot 1317 for 7 years, free of rent.

After 7 years, Francisco Castro, the son-in-law of respondent leased the premises of Lot 1317 from petitioner by virtue of a verbal agreement of lease.

SECOND: In 1969 the lease contract between petitioner and Francisco Castro, son-in-law of respondent was reduced in writing (Exh. "F" also "2"). There can be no reason why respondent's son-in-law would lease Lot 1317 from petitioner and pay the latter rent if his mother-in-law was the absolute owner thereof. Neither can Francisco Castro deny knowledge that it is not his mother-in-law who is the owner thereof.

THIRD: In Criminal Case No. 572 which was brought by Gavino Ramos against Francisco Castro and his wife Trinidad Valencia, the former charged the latter with falsifying the amount of the lease rental from P300.00 to P3,000.00 for the year 1971 to 1974. The land involved in said criminal case was Lot 1317 and the Court rendered judgment finding Gavino Ramos the owner of the fishpond, Lot No. 1317 which has been leased to the accused Francisco Castro for the past 10 years at a rental of P1,000.00 a year. The Court likewise convicted the accused of falsification of a private document and sentenced Francisco Castro and Trinidad Valencia to

imprisonment and to pay a fine (Exh. "G").

FOURTH: Respondent never took possession of Lot 1317 but she took possession of Lot 559-B the lot sold by petitioner in substitution of the first (Lot 1317). Neither did respondent pay taxes on Lot 1317. Instead it was Francisco Castro who had been paying the taxes therefor as provided in the lease contract entered into between petitioner and Castro.

LAST: The trial court found the testimony of petitioner more credible than that of respondent. The question of credibility is addressed mainly to the trial judge who tried the case and heard the witnesses and unless there is clear and manifest error or substantial facts and circumstances which have been overlooked, the findings should not be disturbed on appeal.

We, therefore, find no reversible error in the findings and conclusions of the trial court. (pp. 192-194, Record).[1]

Asuncion Santos, respondent in the trial court, filed a motion for reconsideration of the appellate court's decision but the same was denied for lack of merit, hence this appeal by way of petition for certiorari assigning the same issues raised before the appellate court, to wit:

"I. The lower court erred in giving due course to the petition for Declaratory Judgment on the contract between Gavino Ramos and Asuncion Santos notwithstanding the fact that the proper action should have been an ordinary action for reconveyance or nullity of document.

II. The lower court erred in ordering the quieting of petitioner's Original Certificate of Title No. 14291 over Lot 1317.

III. The lower court erred in annulling the deed of sale Exhibit "A" in a petition for declaratory judgment." (p. 20, Record)

Petitioner Asuncion Santos' contentions are devoid of merit. The question of whether or not a petition for declaratory relief is the proper action was never raised by petitioner herein in her answer or in any of the pleadings before the trial court. While it is true that she earlier manifested, through counsel, that she "finds a need to question the propriety of the petition for declaratory relief as the proper action", her subsequent manifestation stated that she deems it "wise to continue with the hearing until terminated and thereafter file the necessary motion" (pp. 92-93, Record). It appears that she abandoned such desire as nothing in the records can support the fact that she continued to pursue it. The decisions of the trial court and the appellate court did not even touch upon such issue which can only mean that since this issue was not invoked in the trial court, it would be improper to consider it on appeal. This Court in several decisions has repeatedly adhered to the general principle that points of law, theories, issues of fact, and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be, considered by a reviewing court, as they cannot be raised for the first time on appeal.

Neither is there any merit to the second and third assigned errors as they involve questions essentially factual in character. The findings of facts of the lower court will readily show that sufficient documentary evidence supports private respondent's allegation that the deed of sale of Lot 559-B, Hermosa Cadastre, is nothing but a substitute of the Deed of Sale of Lot 1317 Hermosa Cadastre. The Court a quo rendered a decision based on the evidence adduced at the trial. The trial court extensively considered all the evidence presented during the proceedings that transpired substantially. The lower courts inquired into the nature and validity of the title over the property although the action was titled one of declaratory relief. We find no plausible reason to reverse the finding of facts of the appellate tribunal.

WHEREFORE, the appealed decision is hereby **AFFIRMED** and this petition for review is hereby **DISMISSED** with costs against petitioner.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

[1] Thus Ramos won again in the Court of Appeals.

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