

RESURRECCION BARTOLOME, ET AL., PETITIONERS, VS. THE INTERMEDIATE APPELLATE COURT (NOW COURT OF APPEALS) AND HEIRS OF SPOUSES BERNABE BARTOLOME AND URSULA CID, RESPONDENTS.

G.R. NO. 76792. March 12, 1990

Ponente: FERRAN, C.J.

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FERRAN, C.J.:

This is a petition for review on certiorari of the decision[1] of the then Intermediate Appellate Court “adjudicating the whole Lot No. 11165 in favor of” Bernabe Bartolome and Ursula Cid, thereby reversing the decision[2] of the Regional Trial Court of Ilocos Norte, Branch XII at Laoag City. The dispositive portion of the latter decision states:

"WHEREFORE, judgment is hereby rendered adjudicating the eastern portion to the heirs of the late Eпитacio Batara measuring 27 meters from south to north by 32 meters from east to west, with an area of 864 square meters, bounded on the east by the Provincial Road; on the north by the heirs of Rufo Manuel; on the west by a portion of the same Lot No. 11165; and on the south by Lot No. 11164; the remaining portion to the heirs of Doroteo Bartolome, bounded on the east by the portion of Lot No. 11165 adjudicated to the heirs of Eпитacio Batara and heirs of Rufo Manuel; on the north by Eugenio Andrada; on the west by Nieves Caday or Lot No. 11166; and on the south by Lot No. 11164.

"Likewise, the heirs of Eпитacio Bartolome Batara are hereby ordered to reserved (sic) the road right of way for the necessary expansion of the road adjacent to the eastern side of said lot, subject, however, to just compensation.

"Once this Decision becomes final, let the corresponding Decree be issued accordingly.

"IT IS SO ORDERED."

The record shows that a 725-square meter portion of said Lot No. 11165 located in Barrio 11, Laoag, Ilocos Norte, was first declared as his property by Eпитacio Batara under tax declaration No. 5708 dated May 23, 1906.[3] The property was described therein as bounded on the north by the property of Pedro Manuel, on the east by the road, on the south by the property of Doroteo Bartolome and on the west by the property of one named Esteban, and as having "una casa de tabla de dimension 5 x 4 metros" as improvement. Tax declaration No. 5708 was superseded by tax declaration No. 37576 labelled as a "revision of declaration of real property (urban)" dated April 23, 1914.[4] The residential lot described in the latter tax declaration contained an area of 772 square meters with a "casa" and a "granero" as improvements thereon.

Eпитacio Batara and his wife, Maria Gonzales, had two children: Catalina and Pedro. The latter died a bachelor and without issue. Catalina, who married someone surnamed Bartolome, bore five children named Isabela, Tarcila, Calixto, Resurreccion and Ruperta. In 1912, before he left Laoag to settle in Culalabo, Gamo (Burgos), Isabela, Eпитacio entrusted the lot to his cousin, Doroteo Bartolome, who owned the lot bounding Eпитacio's

property on the south.[5] Maria Gonzales remained in the lot for sometime. When she later followed Epitacio to Isabela, she allowed Doroteo Bartolome to continue taking charge of the property.[6]

In 1916, Epitacio Batara died in Isabela. Five years later or in 1921, Maria Gonzales and her grandchildren, Calixto and Resurreccion Bartolome, returned to Laoag. As they found that the house on their lot was destroyed by fire, they boarded in someone else's house. Calixto constructed a bamboo fence around his grandfather's lot and he and Resurreccion, who was studying in Laoag, cleaned it. Resurreccion went back to Isabela after Maria Gonzales' death in 1926.[7] It was also in that year when Doroteo Bartolome, to whom Epitacio had entrusted his land, migrated to Davao City. Doroteo died there two years later.[8]

Thereafter, the Director of Lands instituted cadastral proceedings over the land involved herein (Cadastral Case No. 53). On October 23, 1933, Ursula Cid, the widow of the son of Doroteo Bartolome, Bernabe, who died in 1928,[9] filed an answer in Cadastral Case No. 53, claiming ownership over Lot No. 11165 with an area of 1660 square meters, described as bounded on the north by the property of Rufo Manuel and Eugenia Andrada, on the east by the provincial road, on the south by the property of Doroteo Bartolome, and on the west by the property of Nieves Caday and Eugenia Andrada, and with a house as improvement thereon. The land was allegedly acquired by Ursula Cid through inheritance from Doroteo Bartolome, the father of Ursula's deceased husband, Bernabe.[10]

More than three months later or on January 30, 1934, Resurreccion Bartolome also filed an answer in the same cadastral case claiming ownership over a portion of Lot No. 11165 with an area of 864 square meters described as bounded on the north by the property of the heirs of Rufo Manuel, on the east by Blumentritt Street, on the south by the property of Doroteo Bartolome, and on the west by the property of Bernabe Bartolome. No improvements on the lot were indicated in the answer which also stated that said portion of Lot No. 11165 was acquired by claimant Resurreccion Bartolome "by inheritance from my grandfather and grandmother x x x Epitacio Batara and Maria Gonzales." [11]

From then on, no further proceedings were held the cadastral case. Meanwhile, in 1934, Resurreccion Bartolome verbally entrusted the portion she had claimed to Maria Bartolome, whom she later described as the daughter of Doroteo Bartolome.[12]

In 1939, Ursula Cid and her children also migrated to Davao City leaving their house on Lot No. 11165 to a lessee, Severino Ramos. Ursula and her son, Dominador Bartolome, instructed Maria Bartolome, the sister of Bernabe, to receive the rentals for the house from Severino Ramos.[13] Maria Bartolome also paid the taxes on the property until 1948, when Dominador took over the task.[14] But on September 22, 1950, Maria Bartolome, as "administrator of the parcel of land situated at Bo. 11, Laoag, Ilocos Norte," leased Lot No. 11165 to the Philippine United Trading Co., Inc.[15] The rentals for the property were paid by the lessee to Dominador Bartolome until the edifice housing the company was burned down in 1968.[16] Resurreccion Bartolome, who had been residing in Isabela, was given by Maria Bartolome a small amount, which could have been about P50, in consideration of the lease contract.[17]

In June, 1968, the Court of First Instance of Ilocos Norte sent out notices for the "continuation of the hearing" on June 13, 1968 in Cadastral Case No. 53.[18] It should be remembered, however, that from the time Ursula Cid and Resurreccion Bartolome filed their answers to the petition in the cadastral case, there had been no progress in the proceedings.

A year later or in 1969, Maria J. Bartolome filed in Cadastral Case No. 53 a "motion to admit answer in intervention," alleging that she is one of the children of Doroteo Bartolome and that she and her co-heirs had been excluded in Ursula Cid's answer to the petition. She therefore prayed that the answer of Ursula Cid be amended so

as to include the rightful heirs of Doroteo Bartolome.[19] At the same time, she filed an answer claiming co-ownership over Lot No. 11165 with Clemente, Julia and Rosario Bartolome and Ursula Cid, the widow of Bernabe. She likewise alleged therein that she and her siblings inherited the 1660-square meter lot from Doroteo Bartolome.[20]

Three months later, Ursula Cid filed a motion to amend her answer to reflect the complete "ground or basis of acquisition" of Lot No. 11165.[21] In her amended answer, Ursula Cid stated that she was the absolute owner of Lot No. 11165; that she had been the possessor of Lot No. 11165 for over fifty years; that she "acquired by inheritance from Bernabe Bartolome, who together with her, purchased the x x x lot which used to be three adjoining lots from their respective owners;" and that Lot No. 11165 had been declared for tax purposes in the name of her late husband Bernabe Bartolome.[22]

No hearing was conducted in the case until 1974. To buttress her claim that she and her husband purchased Lot No. 11165, Ursula Cid presented at the trial three deeds of sale: [a] one dated March 1, 1917 showing that Bernabe Bartolome and Ursula Cid bought a 374-square meter lot for fifteen pesos from the spouses Domingo Agustin and Josefa Manrique;[23] [b] another document dated February 18, 1913 executed by Ignacia Manrique in favor of Bernabe Bartolome evidencing the sale of another lot also for fifteen pesos;[24] and [c] still another deed executed by Maria Gonzales y Paguyo on February 9, 1917 in favor of Bernabe Bartolome and Ursula Cid ceding to the latter 772 square meters of land for P103.75.[25] The last-mentioned piece of land is the one being claimed by Resurreccion Bartolome.

On May 10, 1984, the Regional Trial Court of Ilocos Norte rendered a decision the dispositive portion of which is quoted above. The court entertained only the answers of Ursula Cid and Resurreccion Bartolome. It found that the lots described in Exhibits 2 and 3 presented by Ursula Cid "are not within Lot 11165" and that said exhibits "are defective as the vendors are not the real owner(s)" of the lots described therein. As to Exhibit 4, the court ruled that it has "no probative value as the same is incomplete and unsigned." The court also held that Ursula Cid's possession of the land "after the claimants had filed their respective answer(s) or after the declaration of a general default," did not confer ownership on her because said possession was interrupted and merely tolerated by all the parties during the pendency of the case.[26]

Ursula Cid appealed to the then Intermediate Appellate Court. In its decision reversing the lower court, the appellate court held that the deeds of sale presented by Ursula Cid are ancient documents under Section 22, Rule 132 of the Rules of Court. It also ruled that Ursula Cid's continuous possession of the lot from its acquisition and her exercise of rights of ownership over it vested her with the legal presumption that she possessed it under a just title.

Her motion for the reconsideration of said decision having been denied, Resurreccion Bartolome filed the instant petition for review on certiorari based on two principal issues: [a] whether the provisions of Rule 132 on ancient documents are applicable with respect to Exhibit 4, and [b] whether acquisitive prescription runs during the pendency of a cadastral case.

Exhibit 4 consists of three pieces of paper. The first piece is a blank sheet which apparently serves as a cover page. The two other pages contain the handwritten document in Ilocano stating that in consideration of the amount of P103.75, Maria Gonzales y Paguyo sold to the spouses Bernabe Bartolome and Ursula Cid 772 square meters of land bounded on the north by the property of Pedro Manuel, on the east by the Bacarra road, on the south by the property of Doroteo Bartolome and on the west by the property of Bernabe Bartolome. The third sheet or page 2 thereof contains a warranty against eviction and other disturbances with the last three lines indicating the date of the execution of the instrument.

According to Dominador Bartolome, he first saw Exhibit 4 in the possession of his mother, Ursula Cid, when he was just eleven years old. He noticed that the document had a fourth page containing the signature of Maria Gonzales and that all four pages were sewn together.[27] However, when the document was entrusted to him by his mother in 1947 as he was then representing the family in litigation concerning the land, the document's fourth page was already missing.[28] He stated that his mother told him that the fourth page was lost during the Japanese occupation while they were evacuating from Davao City.[29]

Dominador Bartolome also presented in court a sworn statement in Ilocano executed by Ursula Cid on February 19, 1937.[30] In her statement, Ursula Cid declared that the sale of the lot to her and her husband by Maria Gonzales was evidenced by a written instrument; that the land had been transferred in the name of her husband; that she had been paying taxes therefor, and that they had been in continuous possession of the land for more than twenty years.[31]

Rule 132 of the Rules of Court provides:

"SEC. 22. Evidence of execution not necessary. - Where a private writing is more than thirty years old, is produced from a custody in which it would naturally be found if genuine, and is unblemished by any alterations or circumstances of suspicion, no other evidence of its execution and authenticity need be given."

We agree with the appellate court that the first two requirements ordained by Section 22 are met by Exhibit 4. It appearing that it was executed in 1917, Exhibit 4 was more than thirty years old when it was offered in evidence in 1983.[32] It was presented in court by the proper custodian thereof who is an heir of the person who would naturally keep it.[33] We notice, however, that the Court of Appeals failed to consider and discuss the third requirement; that no alterations or circumstances of suspicion are present.

Admittedly, on its face, the deed of sale appears unmarred by alterations. We hold, however, that the missing page has nonetheless affected its authenticity. Indeed, its importance cannot be overemphasized. It allegedly bears the signature of the vendor of the portion of Lot No. 11165 in question and therefore, it contains vital proof of the voluntary transmission of rights over the subject of the sale. Without that signature, the document is incomplete. Verily, an incomplete document is akin to if not worse than a document with altered contents.

Moreover, there is a circumstance which bothers the Court and makes the genuineness of the document suspect. If it is really true that the document was executed in 1917, Ursula Cid would have had it in her possession when she filed her answer in Cadastral Case No. 53 in 1933. Accordingly, she could have stated therein that she acquired the portion in question by purchase from Maria Gonzales. But as it turned out, she only claimed purchase as a mode of acquisition of Lot No. 11165 after her sister-in-law, Maria J. Bartolome and the other descendants of Doroteo Bartolome sought intervention in the case and demanded their rightful shares over the property.

All these negate the appellate court's conclusion that Exhibit 4 is an ancient document. Necessarily, proofs of its due execution and authenticity are vital. Under Section 21 of Rule 132, the due execution and authenticity of a private writing must be proved either by anyone who saw the writing executed, by evidence of the genuineness of the handwriting of the maker, or by a subscribing witness. The testimony of Dominador Bartolome on Exhibit 4 and Ursula Cid's sworn statement in 1937[34] do not fall within the purview of Section 21. The signature of Maria Gonzales on the missing fourth page of Exhibit 4 would have helped authenticate the document if it is proven to be genuine. But as there can be no such proof arising from the signature of Maria Gonzales in the deed of sale, the same must be excluded.[35]

Even if Exhibit 4 were complete and authentic, still, it would substantially be infirm. Under Article 834 of the old Civil Code, Maria Gonzales, as a surviving spouse, "shall be entitled to a portion in usufruct equal to that corresponding by way of legitimate to each of the legitimate children or descendants who has not received any

betterment." And, until it had been ascertained by means of the liquidation of the deceased spouse's estate that a portion of the conjugal property remained after all the partnership obligations and debts had been paid, the surviving spouse or her heirs could not assert any claim of right or title in or to the community property which was placed in the exclusive possession and control of the husband as administrator thereof.[36] Hence, in the absence of proof that the estate of Eпитacio Batara had been duly settled, Maria Gonzales had no right to sell not even a portion of the property subject of Exhibit 4.

On the issue of whether acquisitive prescription runs during the pendency of a cadastral case, we hold, as this Court held in *Cano v. De Camacho*,[37] that the institution of cadastral proceedings, or at least the publication of the notice therein issued, has the effect of suspending the running of the prescriptive period. Hence, the appellate court erred in ascribing acquisitive prescription in favor of Ursula Cid "up to the present." [38]

Neither can Ursula Cid successfully assert that prior to the institution of the cadastral proceedings, she and her husband had gained acquisitive prescription over the property. Until Doroteo Bartolome migrated to Davao City in 1926, he was in possession of the whole lot including the portion entrusted to him by Eпитacio Batara. Granting that the 1520-square meter lot Bernabe Bartolome had declared as his own in 1925[39] is within Lot No. 11165, still, the period from 1925 until the filing of the cadastral case in 1933 failed to give him an advantage. It is short of the 10-year actual, adverse and uninterrupted period of possession mandated by Section 41 of the Code of Civil Procedure in order that a full and complete title could be vested on the person claiming to be the owner of a piece of land.

Furthermore, while it is true that the property had been declared for tax purposes by Bernabe Bartolome and that, subsequent to his death, taxes thereon were paid in his name and later in the name of his son, Dominador,[40] ownership thereof had not been acquired by Ursula Cid or her heirs. Aside from the fact that said declarations and payments were made during the pendency of the cadastral case, a tax declaration in the name of the alleged property owner or of his predecessor-in-interest, does not prove ownership. It is merely an indicium of a claim of ownership.[41] In the same manner, neither does the payment of taxes conclusively prove ownership of the land paid for.

The foregoing discussion notwithstanding, the Court is unprepared to decree 824 square meters of Lot No. 11165 in favor of Resurreccion Bartolome and her co-heirs to the estate of Eпитacio Batara. The revised declaration of real property in the name of Eпитacio Batara, which petitioners presented as Exhibit B, reveals that Eпитacio Batara owned only 772 square meters of the lot involved. Certainly, petitioner and her co-heirs may not be entitled to an area greater than what their grandfather claimed as his own.

Similarly, what remains of Lot No. 11165 after the portion herein adjudicated to Resurreccion Bartolome and her co-heirs has been determined, may not be granted to the heirs of Bernabe Bartolome and Ursula Cid exclusively. The two other deeds of sale presented as Exhibits 2 and 3 having been found worthless by the trial court as they involve parcels of land not within Lot No. 11165 and the vendors of which were not the real owners of the property, which findings of facts are binding on this Court, the law mandates that the property, having been inherited from Doroteo Bartolome, must be shared in equal portions by his children or their heirs.

WHEREFORE, the appealed decision of the then Intermediate Appellate Court is hereby reversed and set aside.

The eastern portion of Lot No. 11165 with an area of 772 square meters is hereby adjudicated in favor of the heirs of Eпитacio Batara who are herein represented by Resurreccion Bartolome while the remaining area of Lot No. 11165 is hereby adjudicated in favor of the heirs of Doroteo Bartolome.

Petitioners shall pay the cost of the survey and subdivision of Lot No. 11165. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

* As written in the petition.

[1] Jorge R. Coquia, J., presiding; Bienvenido C. Ejercito and Josue N. Bellosillo, JJ., concurring.

[2] Judge Gabriel O. Valle, Jr., presiding.

[3] Exh. A; Record, p. 35.

[4] Exh. B; Record, p. 36.

[5] TSN, March 5, 1974, pp. 4-5.

[6] TSN, *supra*, p. 11.

[7] TSN, May 30, 1974, pp. 32-35.

[8] TSN, May 24, 1983, p. 14.

[9] TSN, May 24, 1983, p. 14.

[10] Record, p. 1.

[11] Record, p. 3.

[12] TSN, *supra*, pp. 56-57.

[13] TSN, *supra*, pp. 17-20.

[14] TSN, *supra*, p. 25.

[15] Exh. D; Record, p. 32.

[16] TSN, August 31, 1983, p. 23.

[17] TSN, May 30, 1974, pp. 38 & 60.

[18] Record, p. 5.

[19] Record, p. 7.

[20] Record, p. 9.

[21] Record, p. 13.

[22] Record, p. 15.

[23] Exh. 2.

[24] Exh. 3.

[25] Exh. 4.

[26] Record, p. 241.

[27] TSN, July 11, 1983, pp. 8, 10 & 16.

[28] TSN, *supra*, p. 3.

[29] TSN, *supra*, p. 11.

[30] Exh. 12.

[31] Folder of Exhibits, p. 72.

[32] 32A C.J.S. 40.

[33] 32A C.J.S. 41.

[34] Exh. 12.

[35] See; *General Enterprises, Inc. v. Lianga Bay Logging Co., Inc.*, L-18487, August 31, 1964, 11 SCRA 733, 746.

[36] *Manuel and Laxamana v. Losano*, 41 Phil. 855.

[37] L-28172, February 29, 1972, 43 SCRA 391, 396.

[38] Rollo, p. 25.

[39] Exh. 5.

[40] Exhs. 6 to 7kk.

In 1949, Maria J. Bartolome paid taxes for the land (Exh. 7-d). In 1948, 1970 and 1974, the same property was declared for tax purposes still in the name of the deceased Bernabe Bartolome but the declarations state that it was being administered by Maria J. Bartolome (Exhs. 8 to 8-b).

[41] *Municipality of Antipolo v. Zapanta*, G.R. No. 65334, December 26, 1984, 133 SCRA 820, 825.

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