

**LEONIDA CORONADO, FELIX BUENO, MELANIA RETIZOS,
BERNARDINO BUENASEDA AND JOVITA MONTEFALCON,
PETITIONERS, VS. THE COURT OF APPEALS AND JUANA BUENO
ALBOVIAS, RESPONDENTS.**

G.R. No. 78778. December 03, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to reverse the decision* of the respondent appellate court dated March 3, 1987 in CA-G.R. CV No. 06911 entitled “Juana (Bueno) Albovias, et al., v. Leonida Coronado, et al.,” affirming the decision of the lower court, the decretal portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring Leonida Coronado to have no title or interest over the property in question, hence, has no authority to dispose of the same in favor of her co-defendants;
2. Declaring the sales executed by Coronado and subsequent transactions involving the same property null and void ab initio;
3. Declaring the plaintiff to be the true and legal owner of the subject parcel of land;
4. Ordering the defendants to vacate the subject premises and to surrender possession thereof unto the plaintiff;
5. Ordering the defendants to jointly and severally pay unto the plaintiff the sum of P2,000.00 as attorney’s fees and P10,000.00 as moral and exemplary damages.

Costs against the defendants." (Rollo, p. 17)

As found by the respondent appellate court, the property subject of this case is a parcel of land situated in Nagcarlan, Laguna, containing 277 square meters, more particularly described as follows:

"A parcel of land situated in the Poblacion, Municipality of Nagcarlan, province of Laguna. Bounded on the North, by property of Epifania Irlandez (formerly Bonifacio Formentera); on the East, by that of Julio Lopez; on the South, by that of Dalmacio Monterola (formerly Domingo Bueno); and on the West, by C. Lirio Street. Containing an area of two hundred seventy seven (277) square meters, more or less. Assessed at P3,320.00 under tax declaration No. 241."

(Ibid., p. 15)

Said parcel of land is being contested by Juana Albovias, herein private respondent, on the one hand, and Leonida Coronado, Felix Bueno, Melania Retizos, Bernardino Buenaseda and Jovita Montefalcon, herein petitioners, on the other hand.

Juana Albovias (JUANA, for brevity) claims that the property in question is a portion of a bigger lot referred to as

Parcel G in the last will and testament executed in 1918 by Melecio Artiaga, grandfather of JUANA. This bigger lot was inherited under that will by JUANA, her brother Domingo Bueno, and two other grandchildren, namely Bonifacio and Herminigildo, both surnamed Formentera. Parcel G is described as follows:

"Isang lagay na lupa na ang bahagi ay walang tanim na halaman at ang bahagi naman ay may tanim na saguing, tumatayo sa gawing Canloran ng Calle Avenida Rizal nitong Nagcarlan, at humahangan sa Ibaba; sa ari cong Testador; sa Silangan, sa cay Enrique Jovellano; sa Ilaya, sa namatay na Perfecto Nanagas, at sa Canloran, tubig na pinamamagatang San Cido." (Ibid., p. 16)

JUANA further claims that sometime in 1925 or 1926, C. Lirio street was created by the Municipality of Nagcarlan traversing said Parcel G and thus dividing it into two portions, one on the west of C. Lirio St. and the other to the east of said street. Parcel G was divided by the heirs in the following manner: the land was divided into two portions, the northern portion of which was adjudicated in favor of the Formenteras and the southern portion was given to JUANA and Domingo Bueno. The southern portion in turn was partitioned between JUANA and Domingo Bueno, the former getting the northern part adjoining the lot of the Formenteras, and the latter the southern part which adjoins the lot of Perfecto Nanagas (now owned by Dalmacio Monterola). The part allocated to Domingo was later sold by him to Dalmacio Monterola, owner of the adjoining property (Ibid.).

Moreover, JUANA claims that her property was included together with the two parcels of land owned by Dalmacio Monterola, which were sold by Monterola's successor-in-interest Leonida Coronado (now married to Felix Bueno) to Melania Retizos on April 18, 1970. Melania Retizos in turn sold the lots, including that one being claimed by JUANA, to the spouses Bernardino Buenaseda and Jovita Montefalcon, now the present possessors thereof, sometime in 1974 (Ibid., pp. 16-17)

On the other hand, Leonida Coronado and her co-petitioners (CORONADO, for brevity) claim that the property in question was bequeathed to Leonida Coronado under a Will executed by Dr. Dalmacio Monterola, who was allegedly in possession thereof even before the outbreak of World War II (Ibid., p. 107).

Parenthetically, said will was probated under Sp. Proc. No. SC-283, entitled "Testate Estate of the Deceased Monterola, Leonida F. Coronado, petitioner (Ibid., p. 105). JUANA, together with her husband, opposed the said probate. Despite their opposition, however, the Will was allowed by the then Court of First Instance of Laguna, Sta. Cruz Branch (Ibid., p. 106). On appeal, said decision was affirmed by the Court of Appeals in CA-G.R. No. 40353, entitled "Leonida F. Coronado, petitioner-appellee v. Heirs of Dr. Dalmacio Monterola, "oppositors-appellants" (Ibid.). It is not apparent, however, from the record whether or not said decision has already become final and executory.

As a result of the conflicting claims over the property in question, JUANA filed an action for quieting of title, declaratory relief and damages against CORONADO in the Regional Trial Court of the Fourth Judicial Region, Branch XXVI, Sta. Cruz, Laguna, docketed as Civil Case No. 7345 (Ibid., p. 4).

As adverted to above (first par.), the lower court rendered judgment in favor of JUANA.

Not satisfied with the decision of the lower court, CORONADO elevated the case to the Court of Appeals, which affirmed the decision appealed from (Ibid., p. 20). Hence, this petition.

CORONADO raised the following assigned errors:

I

THE RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN ARRIVING AT A CONCLUSION WHICH IS CONTRARY TO THE FACTS AND CIRCUMSTANCES OF THE CASE AND IN NOT APPLYING THE APPLICABLE PROVISION OF LAW AND JURISPRUDENCE LAID DOWN BY THIS HONORABLE COURT. (Ibid., p. 108)

II

THERE IS NO EVIDENCE PRESENTED TO SHOW THAT THE LAND IN QUESTION CLAIMED BY PRIVATE RESPONDENT IS THE SAME PROPERTY ADJUDICATED TO JUANA BUENO UNDER THE WILL OF THE DECEASED MELECIO ARTIAGA; NEITHER IS THERE EVIDENCE TO SHOW THAT SAID WILL HAD BEEN PROBATED. (Ibid., p. 114)

III

PRIVATE RESPONDENT IS IN ESTOPPEL FROM QUESTIONING THE OWNERSHIP OF THE PETITIONER OVER THE LAND IN QUESTION HAVING FAILED TO RAISE THE SAME IN THE ESTATE PROCEEDING IN THE TRIAL COURT AND EVEN ON APPEAL. (Ibid., p. 119)

IV

THE RESPONDENT COURT OF APPEALS MISAPPRECIATED THE EVIDENCE SUBMITTED AND FACTS ADMITTED ON RECORD. IT THEREFORE COMMITTED GRAVE AND SERIOUS ERROR. (Ibid., p. 121)

As required by this Court, CORONADO filed their memorandum on May 8, 1989 (Ibid., p. 105); while that of JUANA was filed on October 13, 1989 (Ibid., p. 139).

The petition is devoid of merit.

Under the first assigned error, CORONADO assails the respondent appellate court's finding that Dr. Dalmacio Monterola could not have acquired the subject land by acquisitive prescription. Citing Art. 1116 of the New Civil Code in relation to Section 41 of the Code of Civil Procedure, CORONADO claims that JUANA had already foreclosed whatever right or legal title she had over the property in question, the reason being that Monterola's continued possession of the said property for over ten years since 1934 ripened into full and absolute ownership (Ibid., p. 112).

The argument has no factual basis.

Time and again, it has been ruled that the jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive. It is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed. Absent, therefore, a showing that the findings complained of are totally devoid of support in the record, so that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand, for the Supreme Court is not expected or required to examine or contrast the oral and documentary evidence submitted by the parties (*Andres v. Manufacturers Hanover & Trust Corporation*, G.R. 82670, September 15, 1989). There are no convincing reasons in the instant case to depart from this rule.

As found by the respondent appellate court, Monterola never claimed ownership over the property in question. As a matter of fact, one of the deeds of donation executed by Monterola in favor of Leonida Coronado acknowledged

that the boundary owner on the property conveyed to her is JUANA. This is precisely the reason why during the lifetime of the late Dalmacio Monterola, JUANA had always been allowed to enter and reap the benefits or produce of the said property. It was only after the death of said Monterola in 1970 that Leonida Coronado prohibited JUANA from entering it (*Ibid.*, p. 18).

Even assuming arguendo that Monterola was indeed in continued possession of the said property for over ten years since 1934, said possession is insufficient to constitute the fundamental basis of the prescription. Possession, under the Civil Code, to constitute the foundation of a prescriptive right, must be possession under claim of title (*en concepto de dueño*), or to use the common law equivalent of the term, it must be adverse. Acts of possessory character performed by one who holds by mere tolerance of the owner are clearly not *en concepto de dueño*, and such possessory acts, no matter how long so continued, do not start the running of the period of prescription (*Manila Electric Company v. Intermediate Appellate Court*, G.R. 71393, June 28, 1989).

In this case, Monterola, as found by the respondent appellate court and the lower court, never categorically claimed ownership over the property in question, much less his possession thereof *en concepto de dueño*. Accordingly, he could not have acquired said property by acquisitive prescription.

Anent the contention of CORONADO that Leonida Coronado could tack her possession to that of Monterola, so that claim of legal title or ownership over the subject property, even against the petitioners, the Buenasesas, who are purchasers for value and in good faith, is a foregone or settled issue, the respondent appellate court aptly answered the same in this wise:

"It follows that Leonida Coronado could not have derived ownership of the land in question from her predecessor-in-interest Dalmacio Monterola, whether by prescription or by some other title. Neither can she claim acquisitive prescription in her own name. It was only in 1970 after the death of Dalmacio Monterola that she asserted her claim of ownership adverse to that of plaintiff-appellee. Having knowledge that she had no title over the land in question, she must be deemed to have claimed it in bad faith. Under Article 1137 of the Civil Code, ownership and other real rights over immovables prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or good faith. And even granting that she had no notice or defect in her title and was, therefore, in good faith, a period of ten years of possession is necessary for her to acquire the land by ordinary prescription. (Article 1134, Civil Code). But she can claim to have possessed the land only in 1968, the year the Monterola lots were donated to her. The period, however, was interrupted in 1975, or 7 years after, when the complaint below was filed." (*Rollo*, pp. 18-19)

Under the second assigned error, CORONADO claims that the will under which JUANA inherited the property in question from her grandfather, Melecio Artiaga, was never probated; hence, said transfer of ownership was ineffectual considering that under Rule 75, Sec. 1 of the Rules of Court (formerly Sec. 125 of Act No. 190, no will shall pass either real or personal property unless it is proved and allowed in the proper court (*Ibid.*, p. 115).

The contention is without merit.

While it is true that no will shall pass either real or personal property unless it is proved and allowed in the proper court (Art. 838, Civil Code), the questioned will, however, may be sustained on the basis of Article 1056 of the Civil Code of 1899, which was in force at the time said document was executed by Melecio Artiaga in 1918. The said article read as follows:

"Article 1056. If the testator should make a partition of his properties by an act *inter vivos*, or by will, such partition shall stand in so far as it does not prejudice the legitime of the forced heir." (*Mang-Oy v. Court of Appeals*, 144 SCRA 33 (1986).

In this case, nowhere was it alleged nor shown that Leonida Coronado is entitled to legitime from Melecio

Artiaga. The truth of the matter is that the record is bereft of any showing that Leonida Coronado and the late Melecio Artiaga were related to each other.

Under the third assigned error, CORONADO claims that JUANA is estopped from questioning the ownership of Leonida Coronado over the land in question having failed to raise the same in the estate proceedings in the trial court and even on appeal (Rollo, p. 119).

The contention is likewise without merit.

Normally, the probate of a will does not look into its intrinsic validity. The authentication of a will decides no other questions than such as touch upon the capacity of the testator and the compliance with those requisites or solemnities which the law prescribes for the validity of the wills. It does not determine nor even by implication prejudice the validity or efficiency of the provisions of the will, thus may be impugned as being vicious or null, notwithstanding its authentication. The question relating to these points remain entirely unaffected, and may be raised even after the will has been authenticated (Manirang, et. al., v. Court of Appeals, 114 SCRA 473 (1982). Consequently, JUANA is not estopped from questioning the ownership of the property in question, notwithstanding her having objected to the probate of the will executed by Monterola under which Leonida Coronado is claiming title to the said property.

Under the fourth assigned error, it is alleged by CORONADO that JUANA's position is weak for want of factual and legal support; the weakness of JUANA's position lies in the fact that she did not only fail to identify the subject land, but also failed to explain the discrepancy in the boundary of the property she is claiming to be hers (Rollo, p. 125).

The contention is unavailing.

The fact that JUANA failed to identify the property in question and to explain the discrepancy in the boundary of said property, assuming they are true, is immaterial, in view of the findings of the lower court as to the identity of the property in question. Moreover, the lower court found sufficient evidence to support the conclusion that the property in question is the same property adjudicated to JUANA under the will of Melecio Artiaga, and that CORONADO has no right whatsoever to said property (Ibid., p. 20). Such findings are conclusive upon this Court (Reynolds Philippine Corporation v. Court of Appeals, 169 SCRA 220 (1989).

PREMISES CONSIDERED, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by Justices Jose A. R. Melo and concurred in by Justices Esteban M. Lising and Celso L. Magsino.

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