

BALTAZAR, PEDRO, URSULA, AND DOMINGO, ALL SURNAMED PANTIG, PETITIONERS, VS. VENANCIO BALTAZAR, RESPONDENT.

G.R. No. 80904. December 03, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari which seeks to annul and set aside: a) the September 1, 1987 resolution* of the Court of Appeals, in CA-G.R. CV No. 03198 entitled “Baltazar, Pedro, Ursula and Domingo, all surnamed Pantig vs. Venancio Baltazar” granting the private respondents’ motion for new trial and b) the December 1, 1987 resolution of the Court of Appeals denying the motion for reconsideration.

The antecedent facts of the case as found by the Court of Appeals, are as follows:

During his lifetime, Macario Baltazar, divided his properties by way of inheritance, among his children and his grandchildren, the surviving heirs of his deceased daughter Anastacia Baltazar who died in 1952, namely: Baltazar, Pedro, Ursula and Domingo, all surnamed Pantig. He gave the properties known as Banga, Pagpito and Sukol, named after the sitios where the properties were situated; that because the grandchildren were still minors, the properties adjudicated to them known as Lot No. 1471 of the Sexmoan Cadastre, with an area of 139,126 square meters were placed under the joint management/administration of Venancio Baltazar and Maxima Baltazar and her husband, Justo Garcia (Rollo, p. 66).

In 1924, upon agreement of Maxima and Venancio, Lot No. 1471 was converted into a fishpond and said land was covered by Tax Declaration No. 6081 in the name of Macario Baltazar (Rollo, Ibid.).

When Pedro Pantig, son of the deceased Anastacia Baltazar, became of age, he and his brothers and sisters demanded from their uncle, Venancio Baltazar, the return of their properties to them, but their uncle merely told them not to worry and instead gave them P200.00 semi-annually as their shares in the produce of the fishpond; their last share of P400.00 was received in 1969 (Rollo, Ibid.).

On July 23, 1968, applicant Venancio Baltazar filed in Court an application for registration of three parcels of land, designated as Lots Nos. 1471, 1747 and 1801 of the Sexmoan Cadastre, with an area of 139,296 square meters, 20,592 square meters and 3,178 square meters, respectively, all situated at Barangay San Antonio and Sta. Monica, Pampanga (Rollo, Decision, p. 18).

In the said application for registration, the applicant alleged that he acquired Lot No. 1747 and Lot No. 1801 from Jose L. Lacsamana on December 7, 1953 and Lot No. 1471, partly by inheritance from his late father Macario Baltazar who died in 1925 and that his possession thereof, together with that of his predecessor-in-interest, has been open, peaceful, public, continuous and adverse and in the concept of owner for more than thirty years (Rollo, Ibid.).

The late Hon. Malcolm G. Sarmiento, then Presiding Judge of this Branch (CFI), appointed the Branch Clerk of Court Irene T. Galura (now retired) as Commissioner to receive the evidence for the applicant and the applicant

presented three (3) witnesses before the Commissioner and thereafter submitted the application for decision (Rollo, Ibid.).

In a decision rendered on August 29, 1969, the court confirmed the applicant's title to the three parcels of land described in the application, including the lot in question (Lot 1471) and ordered that the same be decreed in favor of Venancio Baltazar. On March 6, 1970, an order for the issuance of the corresponding decree was issued (Rollo, Ibid.).

On May 20, 1970, petitioners Pantig filed a petition for review of judgment in the Regional Trial Court, Branch XLI, San Fernando, Pampanga, insofar as Lot 1471 is concerned, alleging that the same is their property and that Venancio Baltazar has defrauded them by intentionally omitting them in his application for registration of the land and by stating in the application that the said land belongs to him, notwithstanding his full knowledge that the same lawfully belongs to the herein petitioners, despite the fact that Venancio Baltazar was merely holding the property in trust as an uncle administrator of the property (Rollo, Ibid., p. 18).

Because of the petition for review, the same court, in its order of June 24, 1970, ordered the Land Registration Commissioner to hold in abeyance the issuance of a decree over Lot No. 1471 (Rollo, Ibid., p. 19) but on December 15, 1972, dismissed the petition for review without prejudice on the part of petitioner to file an ordinary action for reconveyance (Rollo, Ibid.).

On January 25, 1973, petitioners elevated the dismissal of their petition to the Intermediate Appellate Court (now Court of Appeals) which remanded the case to the court of origin, which was ordered to act on the petition for review in accordance with the law and the evidence, as presented in support of the petition as well as that presented in opposition thereto (Rollo, Annex "D", p. 30).

On April 5, 1984, a decision was rendered in favor of the petitioners Pantig, the dispositive portion of which reads:

"WHEREFORE, and in view of the foregoing, a new judgment is hereby rendered as follows:

'1) That portion of the Decision rendered on August 21, 1969 confirming applicant-respondent's title to Lot 1471 is hereby set aside;

'2) Petitioners' title to Lot 1471, described in plan AP-19164 (Exhibit D) and in its technical description (Exhibit H), is hereby confirmed and orders that the same be decreed in an undivided equal shares in favor of petitioners Baltazar Pantig, Domingo Pantig, Pedro Pantig and Ursula Pantig, Filipinos, of legal ages, all married, the first two being residents of Sexmoan, Pampanga, and the last two being residents of Guagua, Pampanga; and,

'3) Upon the finality of this decision, respondent Venancio Baltazar is hereby ordered to surrender possession of Lot 1471 to the petitioners and to render within sixty (60) days thereof an accounting of the produce thereof from 1969.

"Once this Decision becomes final, let the corresponding decree issue.

"With costs against applicant-respondent Venancio Baltazar.

"SO ORDERED." (Rollo, p. 27).

On appeal, the Intermediate Appellate Court (now Court of Appeals), on March 21, 1986, affirmed the decision of the lower court, the dispositive part of which reads:

"WHEREFORE finding no reversible error in the judgment appealed from, the same is hereby AFFIRMED.

“SO ORDERED.” (Rollo, Annex “D”, p. 36).

On April 8, 1986, the respondent filed a motion for reconsideration. And on April 16, 1986, respondent filed a Supplemental Motion for New Trial under Section 9 of Batas Pambansa Blg. 129 based on the following grounds:

I

THAT THE HEIRS OF RESPONDENT-APPELLANT VENANCIO BALTAZAR WERE DEPRIVED OF THEIR DAY IN COURT;

II

THAT NEWLY DISCOVERED EVIDENCES HAVE BEEN FOUND WHICH IF PRESENTED WOULD PROBABLY ALTER THE DECISION IN THE INSTANT CASE. (ROLLO, P. 134).

After the parties had filed their respective pleadings and their oral arguments heard, the Intermediate Appellate Court (now Court of Appeals) promulgated a Resolution dated September 1, 1987, the dispositive portion of which reads:

“WHEREFORE, in the interest of justice, the motion for new trial is hereby GRANTED to give an opportunity for the movants to adduce their newly discovered evidences.

“Let the records of this case be remanded to the trial court for appropriate proceedings.” (Rollo, Annex “A”, p. 3).

To said resolutions, the petitioners filed a motion for reconsideration, which was denied by the Court of Appeals in its resolution dated December 1, 1987 (Rollo, Annex “B”, pp. 58-59).

Hence, the petition.

The Second Division of this Court, in its resolution dated February 15, 1989 gave due course to the petition and required both parties to file their simultaneous memoranda (Rollo, Petition, pp. 8-16; Resolution, p. 145).

Memorandum for petitioners (pp. 121-128) was filed on March 21, 1989 while private respondent’s memorandum was filed on April 1, 1989 (Rollo, pp. 129-146).

The pivotal issue in this case is whether or not the private respondent is entitled to a new trial on the ground of newly discovered evidence.

The petition is impressed with merit.

Section 1 of Rule 37 of the New Rules of Court enumerates the grounds for new trial, among others:

“a) x x x

“b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered, and produced at the trial, and which if presented would probably alter the result.

“c) x x x.”

A motion for new trial upon the ground of newly discovered evidence, is properly granted where there is concurrence of the following requisites, namely: a) the evidence had been discovered after trial; b) the evidence could not have been discovered and produced during trial even with the exercise of reasonable diligence; and c) the evidence is material, and not merely corroborative, cumulative, or impeaching and is of such weight that if admitted, would probably alter the result (Tumang v. Court of Appeals, 172 SCRA 332 [1989]).

In order that a particular piece of evidence may be properly regarded as “newly discovered” for purposes of a grant of a new trial, what is essential is not so much the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; what is essential is, rather, that the offering party had exercised reasonable diligence in seeking to locate such evidence before or during trial but had nonetheless failed to secure it (Ibid.).

In the case at bar, the fact that the deed of sale, the contracts of lease mortgage and the like, are allegedly newly discovered, are not supported by the records. On the contrary, they could have been produced during the trial in the lower court, any time from July 1970 up to April 4, 1984, inasmuch as they are known by Venancio Baltazar and his heirs or his counsel and are easily obtainable from the parties to the contract, from the notary public who notarized them or from the clerk of court where copies are filed. Said documents cannot, therefore, be considered as considered as newly discovered evidence but more correctly ascribed as suppressed evidence.

Nonetheless, after a careful study of the findings of the trial court (Decision, pp. 18-27) which were supported by substantial evidence and unanimously affirmed by the Court of Appeals (Rollo, Decision, pp. 28-36), there appears no basis for the claim that the alleged newly discovered evidence would alter the result of the said decision.

PREMISES CONSIDERED, the petition is hereby GRANTED, the assailed resolutions dated September 1, 1987 and December 1, 1987 are hereby SET ASIDE, and the the decision of the Court of Appeals dated March 21, 1986 is hereby REINSTATED.

SO ORDERED.

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

* Penned by Justice Jorge R. Coquia concurred in by Justices Ricardo P. Tensuan and Oscar M. Herrera with separate dissenting opinions of Justices Florelia C. Bartolome and Bienvenido C. Ejercito.

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